STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES:

S. 593. A bill to amend the Internal Revenue Code of 1986 to clarify that natural gas gathering lines are 7-year property for purposes of depreciation; to the Committee on Finance.

Mr. NICKLES. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 593

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

''(ii) any natural gas gathering line, and''.

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(15) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

''(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

''(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead to the point at which such gas first reaches—

''(i) a gas processing plant,

''(ii) an interconnection with a transmission pipeline certified by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

''(iii) an interconnection with an intrastate transmission pipeline, or

''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service before, on, or after the date of the enactment of this Act.

By Mr. NICKLES:

S. 594. A bill to amend the Internal Revenue Code of 1986 to simplify the excise tax on heavy truck tires; to the Committee on Finance.

Mr. NICKLES. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SIMPLIFICATION OF EXCISE TAX ON HEAVY TRUCK TIRES.

(a) TAX BASED ON TIRE LOAD CAPACITY NOT ON WEIGHT.—Subsection (a) of section 4071 of the Internal Revenue Code of 1986 (relating to imposition of tax on tires) is amended to read as follows:

''(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on tires of the type used on highway vehicles, if wholly or in part made of rubber, sold by the manufacturer, producer, or importer a tax equal to 8 cents for each 10 pounds of the tire load capacity in excess of 3500 pounds.''.

(b) TIRE LOAD CAPACITY.—Subsection (c) of section 4071 of the Internal Revenue Code of 1986 is amended to read as follows:

''(c) TIRE LOAD CAPACITY.—For purposes of this section, tire load capacity is the maximum load rating labeled on the tire pursuant to section 571.109 or 571.119 of title 49, Code of Federal Regulations. In the case of any tire that is marked for both single and dual loads, the higher of the 2 shall be used for purposes of this section.''.

(c) TIRES TO WHICH TAX APPLIES.—Subsection (b) of section 4072 of the Internal Revenue Code of 1986 (defining tires of the type used on highway vehicles) is amended by striking ''tires of the type'' the second place it appears and all that follows and inserting ''tires—

''(1) of the type used on—

''(A) motor vehicles which are highway vehicles, or

''(B) vehicles of the type used in connection with motor vehicles which are highway vehicles, and

''(2) marked for highway use pursuant to section 571.109 or 571.119 of title 49, Code of Federal Regulations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1 of the first calendar year which begins more than 30 days after the date of the enactment of this Act.

By Mr. WELLSTONE (for himself, Mr. DASCHLE, and Mr. INOUYE):

S. 595. A bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment services under private group and individual health coverage, to the Committee on Health, Education, Labor, and Pensions.

Mr. WELLSTONE. Mr. President, I rise today to introduce legislation that will ensure that private health insurance companies cover the costs for drug and alcohol addiction treatment services at the same level that they pay for treatment for other disease. The purpose of this bill is to end discrimination in insurance coverage for drug and alcohol addition treatment. This bill, entitled Fairness in Treatment: The Drug and Alcohol Addition Recovery Act of 2001, offers the necessary provisions to provide this assurance.

For too long, the problem of drug and alcohol addiction has been viewed as a moral issue, rather than as a disease. Too often, a cloak of secrecy has surrounded this problem, causing people who have this disease to feel ashamed and afraid to seek treatment for their symptoms for fear that they will be seen as admitting to a moral failure, or a weakness in character. We have all seen portrayals of alcoholics and addicts that are intended to be humorous or derogatory, and only reinforce the biases against people who have problems with drug and alcohol addiction. I cannot imagine this type of portrayal of someone who has another kind of chronic illness, a heart problem, or who happens to carry a gene that predisposes them to diabetes.

It has been shown that some forms of addiction have a genetic basis, and yet we still try to deny the serious medical nature of this disease. We think of those with this disease as somehow different from us. We forget that someone who has a problem with drugs or alcohol can look just like the person we see in the mirror, or the person who is sitting next to us at work or on the subway, or like someone in our own family. In fact, it is likely that most of us know someone who has experienced drug and alcohol addiction, within our families or our circle of friends or coworkers.

Alcoholism and drug addiction are painful, private struggles with staggering public costs. A study prepared by Brandeis University's Schneider Institute for Health Policy estimated that untreated addiction costs America $400 billion per year. This estimate includes costs for alcohol addiction treatment and prevention costs, as well as costs associated with related illnesses, reduced job productivity or lost earnings, and other costs to society such as crime and social welfare programs.

The medical effects of drug addiction are far-reaching. According to the Physician leadership on National Drug Policy, heavy drinking contributes to illness in each of the top three causes of death: heart disease, cancer, and stroke. A 1996 article in Scientific American estimated that excessive alcohol consumption causes more than 100,000 deaths in the U.S. each year. Of these deaths, 24 percent are due to drunken driving, resulting in untold suffering and tragic loss of life.

We know that addiction to alcohol and other drugs contribute to other problems as well. Addictive substances have the potential for destroying the person who is addicted, their family, and their other relationships. We know, for example, that fetal alcohol syndrome is the leading known cause of mental retardation. If the woman who was addicted to alcohol could receive proper treatment, fetal alcohol syndrome for her baby would be 100 percent preventable, and more than 12,000 infants born in the U.S. each year would not suffer from fetal alcohol syndrome, with its irreversible physical and mental damage.

We know too of the devastation caused by addiction when violence between people is one of the consequences. A 1998 SAMHSA report outlined the links between domestic violence and substance abuse. We know from clinical reports that 25–50 percent of men who commit acts of domestic violence also have substance abuse problems. The report recognized the link between the victim of abuse and use of alcohol and drugs, and recommended that after the woman's safety has been addressed, the next step would be to help with providing treatment for her addiction as a step toward independence and health, and toward the prevention of the consequences for the children who suffer the same abuse either directly, or indirectly by witnessing spousal violence.

People who have the disease of addiction can be found throughout our society. According to the 1997 National Household Survey on Drug Abuse published by SAMHSA, nearly 73 percent of all illegal drug users in the United States are employed. This number represents 6.7 million full-time workers and 1.6 million part-time workers. Although many of these workers could and should have insurance benefits that would cover treatment for this disease, they do not.

In addition to the health problems resulting from the failure to treat the illness, there are other serious consequences affecting the workplace, such as lost productivity, high employee turnover, low employee morale, mistakes, accidents, and increased worker's compensation insurance and health insurance premiums, all results of untreated addiction problems. Whether you are a corporate CEO or a small business owner, there are simple, effective steps that can be taken, including providing insurance coverage for this disease, ready access to treatment and workplace policies that support treatment, that can reduce these human and economic costs.

We know from the outstanding conducted at NIH, through the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, that treatment for drug and alcohol addiction can be effective. We know that treatment of addiction is as success as treatment of other chronic disease such as diabetes, hypertension, and asthma. We know that drug treatment reduces drug use by 40–60 percent. And we know that treatment results in other positive changes in behavior, such as fewer psychological symptoms and increased work productivity. According to American Airlines, 75–85 percent of employees who received alcohol and other drug treatment remained abstinent from drugs during their one year follow up.

We must do more to prevent this illness and to treat those who are addicted to drugs and alcohol. Over the past several years, the principle of parity in insurance coverage for alcohol and drug rehabilitation and treatment has received the strong support of the White House, the Office for National Drug Control Policy, Former Surgeon General C. Everett Koop, Former President and Mrs. Gerald Ford, the U.S. Conference of Mayors, Kaiser Permanente Health Plans and many leading figures in medicine, business, government, journalism and entertainment who have successfully fought the battle of addiction with the help of treatment. Hearings held in the 106th Congress by the Senate Appropriations Committee and the Committee on Labor, Education, Labor, and Pensions highlighted the recent major advances in scientific information about the disease; the biological causes of addiction; the effectiveness and low cost of treatment; and many painful, personal stories of people, including children, who have been denied treatment. Recent hearings in the Judiciary Committee have also emphasized a greater Federal role in funding treatment and prevention programs.

We know that the failure of insurance companies to provide treatment can sometimes have devastating results. In a 1999 story, the New York Times highlighted the tragic suicide of a young man who desperately sought inpatient treatment care for his drug addiction and fought for 8 months to have the plan authorize the treatment that was in fact included in as part of his benefits. The authorization came through, but too late. He had died 3 weeks earlier from a drug overdose. This kind of denial of care for addiction treatment is not at all unique. The 1998 Hay Group Report on Employer Health Care Dollars Spent on Substance Abuse showed that from 1988 through 1998 the value of substance abuse treatment benefits decreased by 74.5 percent, as compared to a 11.5 percent decrease for overall health care benefits.

Addiction to alcohol and drugs is a disease that affects the brain, the body, and the spirit. We must provide adequate opportunities for the treatment of addiction in order to help those who are suffering and to prevent the health and social problems that it causes. This legislation will take an important step in this direction by requiring that health insurance plans eliminate discrimination for addiction treatment. The costs for this are very low. A 1999 study by the Rand Corporation found that the cost to managed care health plans is now only about $5 per person per year for unlimited substance abuse treatment benefits to employees of big companies. A 1997 Milliman and Robertson study found that complete substance abuse treatment parity would increase per capita health insurance premiums by only one half of 1 percent, or less than $1 per member per month, without even considering any of the obvious savings, that will result from treatment. Several studies have shown that for every $1 spent on treatment, more than $7 is saved in other health care expenses, and that these savings are in addition to the financial and other benefits of increased productivity, as well as participation in family and community life. Providing treatment for addiction also saves millions of dollars in the criminal justice system. But for treatment to be effective and helpful throughout our society all systems of care, including private insurance plans, must share this responsibility.

This legislation does not mandate that health insurers offer substance addiction treatment benefits. What it does is prohibit discrimination by health plans who offer substance addiction treatment from placing unfair and life-threatening limitations on caps, access, or financial requirements for addiction treatment that are different from other medical and surgical services.

We must move forward now to vigorously address the serious and life-threatening problem of drug and alcohol addiction in our country. It is long past time that insurance companies do their fair share in bearing the responsibility for treating this disease.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fairness in Treatment: The Drug and Alcohol Addiction Recovery Act of 2001''.

SEC. 2. PARITY IN SUBSTANCE ABUSE TREATMENT BENEFITS.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

''SEC. 2707. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

''(2) SMALL EMPLOYER.—For purposes of paragraph (1), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 25 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(3) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Non-hospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.

''(f) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 713(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of the Public Health Service Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2707''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

''(2) SMALL EMPLOYER.—For purposes of paragraph (1), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 25 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(3) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Non-hospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.

''(f) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(c)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(iii) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits.''.

(3) INTERNAL REVENUE CODE AMENDMENTS.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by inserting after section 9812, the following:

''SEC. 9813. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

''(2) SMALL EMPLOYER.—For purposes of paragraph (1), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 25 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(3) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Non-hospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.''.

(B) CONFORMING AMENDMENT.—The table of contents for chapter 100 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits.''.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended by inserting after section 2752 the following:

''SEC. 2753. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE BENEFITS.

''(a) IN GENERAL.—The provisions of section 2707 (other than subsection (e)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 713(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.''.

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of the Public Health Service Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking ''section 2751'' and inserting ''sections 2751 and 2753''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (3), the amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2002.

(2) INDIVIDUAL MARKET.—The amendments made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2002.

(3) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made subsection (a) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 2002.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

(d) COORDINATED REGULATIONS.—Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking ''this subtitle (and the amendments made by this subtitle and section 401)'' and inserting ''the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and the provisions of parts A and C of title XXVII of the Public Health Service Act, and chapter 1000 of the Internal Revenue Code of 1986''.

SEC. 3. PREEMPTION.

Nothing in the amendments made by this Act shall be construed to preempt any provision of State law that provides protections to enrollees that are greater than the protections provided under such amendments.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. BAUCUS, Mr. BREAUX, Ms. CANTWELL, Mr. DORGAN, Mr. LEAHY, Mr. REID, Mr. SCHUMER, Mr. KENNEDY, Mr. ROCKEFELLER, Mrs. MURRAY, and Mr. TORRICELLI):

S. 596. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. BAUCUS, Mr. BREAUX, Ms. CANTWELL, Mr. DORGAN, Mr. LEAHY, Mr. REID, Mr. SCHUMER, Mr. KENNEDY, Mrs. MURRAY, Mr. ROCKEFELLER and Mr. TORRICELLI):

S. 597. A bill to provide for a comprehensive and balanced national energy policy; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today, I, along with many of my colleagues in the Senate, members of the Democratic caucus, have introduced two bills: the Comprehensive and Balanced Energy Policy Act of 2001, and its companion measure, the Energy Security and Tax Incentive Act of 2001. I expect the first of those will be referred to the Committee on Energy and Natural Resources and the other will be referred to the Committee on Finance because it does contain tax provisions.

Mr. President, the Nation is facing important challenges to its energy future. For decades, we have been able to rely on the fact that our energy supplies were abundant, dependable, and affordable. Events in recent months have shaken the faith of many in that reliance. Volatile prices, high prices and outright failures of supply are reported in newspaper headlines almost daily.

Why are we seeing these problems emerge now? Energy prices remained relatively stable over the last decade due to increased productivity, lower energy use per dollar of GDP, and introduction of market competition. All of these factors acted to hold down prices, in spite of robust economic growth and increasing demand for energy. Before the introduction of competition into energy markets we had policies that required large excess capacity margins. We paid a lot for that excess capacity in the past, but we also benefitted from that buffer. It kept the system functioning as markets restructured with low prices and relatively minor bumps along the way. As the economic growth of recent years has used up that excess capacity in the fuels, power and natural gas sectors, the frictions and imperfections in those markets have become apparent. That is what we are seeing today.

Three weeks ago, when Senator MURKOWSKI, Chairman of the Energy Committee on which I serve, introduced the Republican energy message bill, I gave an outline of what I thought should be included in comprehensive energy legislation for the Congress to put together a balanced and adequate response to the energy issues that confront the Nation.

At that time I said that I strongly believed that a package with equal emphasis on both supply and demand side measures developed with bipartisan support is the only way we can pass energy legislation this Congress.

The key word is balance. The bill introduced by my Republican colleague is strong on the supply side and I support many of its provisions but short on the demand side of the equation. Many provisions of the Republican package I support, as do a number of my Democratic colleagues.

However, after reviewing that bill overall, I believe it is appropriate to introduce a countermeasure, a measure that addresses our energy needs as I see it in a more balanced and comprehensive way. This will help our discussion for final legislation in this area and help focus in on what the priorities need to be as we move forward.

The first of the issues left out of the Republican bill for any real consideration was the issue of climate change. In 1992, the Senate ratified the Rio Treaty calling for a reduction in carbon dioxide emissions to 1990 levels by the year 2000. I know some in this body do not believe we should have acted to approve that treaty, but we did. Last year, instead of reaching those 1990 levels by the year 2000, we were 17 percent above those levels.

We and the rest of the world have recognized the vital importance of preventing the potential for catastrophic climate change, that our human activities are, in fact, threatening. We have made commitments, but we have not met those commitments. We need to do so, not as some isolated exercise undertaken without regard to the economy, but as an integral part of our energy policy for the 21st century.

In my view, we cannot separate climate change policy from energy policy. To do one is to inextricably affect the other. The policy bill I am introducing creates a bipartisan national commission on energy and climate change to be appointed by this President and to conduct a study of measures that could achieve stabilization of greenhouse gas emissions in this country at 1990 levels by the year 2010—and below 1990 levels by the year 2020.

The commission would then develop recommendations concerning measures appropriate for implementation, for legislation, and for administrative action to implement this goal.

There are some who believe we should be looking at even deeper cuts to our emissions than to return to 1990 levels by 2010. I have some sympathy for that perspective. But if we are to take a bipartisan approach to the task of integrating climate change policy with energy policy, it is more realistic to start with a point that the Senate is on record as agreeing to. Most Members who were here at the time the vote occurred in 1992 on the Rio Treaty believe that commitment to go to 1990 levels by the year 2000, although on a voluntary basis, was a good-faith and reasonable commitment.

I believe there should not be objection to reaching that same goal given an extra 10 years in which to achieve it. The answer to how we get to this point may help illuminate the issues of what more aggressive actions are needed to reduce greenhouse gas emissions. The bill I am introducing calls for a much more vigorous effort by the U.S. Government to get U.S. clean energy technology into developing countries that are expected to experience major increases in their greenhouse gas emissions over the next decade.

The United States cannot solve the greenhouse gas problem by itself, and we all know that. Other countries need to do their part. But since our particular strength in this country has been the development of technology, we should be making every effort to help those developing countries adopt the cleanest technologies in each energy area that we have to offer.

It makes good business sense, it makes good climate sense, and the appropriate Federal agencies should help facilitate the process.

Another missing element in the Republican bill is the area of how to site energy infrastructure. There has been a lot of talk about the problem, but not much action beyond finger-pointing in this area. I believe we need to recognize the wisdom of the old Pogo adage, ''We have met the enemy and he is us.'' Even communities that are experiencing energy crunches are having trouble siting new energy infrastructure because of local sentiment against it. This is not principally a problem with environmental regulations, as some would suggest. It is NIMBY—''not in my backyard''—pure and simple.

If we are to effectively deal with this siting problem, we will need new tools and models. One that I think is particularly promising is regional cooperation, partly because most energy markets are regional. For example, as technologies for transmitting electricity have improved, electric utilities have come more and more to depend on the wholesale market for electricity supply. Those markets are increasingly regional in scope.

A similar picture can be painted for the natural gas market. In order to meet the challenges of these new market realities, we must change the regulatory institutions to reflect the structures of the market. The markets are regional. So we must think regionally.

We have seen regional bodies help site other important societal infrastructure, such as highways. But if a similar construct is to be helpful in the energy area, there will be a great need for technical assistance and for a regular forum where regional leaders and decision makers in Federal agencies can meet to discuss the real issues and problems. For that reason, the bill I am introducing has provisions that have the DOE meet these needs.

I realize that this is a small beginning, but I believe this is an important piece of this bill. I know that a number of States, particularly in the West and the Northeast, as well as other regions, are already engaged in varying degrees of cooperative effort to address the regionalization of energy markets. I look forward to working with the States, and with Federal agencies to develop a framework to support these efforts.

The bill that I am introducing requires a review of the adequacy of FERC transmission policies and its interpretation of market power. It calls for an investigation of the possibility using existing rights-of-way owned by Federal Power Marketing agencies for siting energy facilities.

As the electricity industry has changed, the structure for assuring the reliability of the power grid has come under fire. Many in the industry and the regulatory community believe that the old system of self-policing, voluntary compliance with rules generated by the suppliers will not continue to provide the reliability that we have come to expect.

Last year the Senate passed a bill that addressed this issue by creating a new entity to develop and enforce electric reliability rules. I have included that bill as part of this package, and the text is identical to what was included in the Republican bill I mentioned earlier.

This bill also contains a number of provisions intended to provide additional protection for electricity consumers. Among these are protections against such unfair trade practices as slamming and cramming; encouragement to the States to ensure universal and affordable service; a rural construction grant program; a comprehensive Indian energy program; greater transparency of information on the availability transmission and generating capacity; and a public benefits fund to help States with various energy efficiency, renewable energy and low income energy programs and to support investments in climate change mitigation.

Perhaps most importantly, this bill contains language to address the immediate crisis being experienced by California, both in terms of electricity and natural gas. We cannot ignore the problem of California, or simply sit back and give speeches heaping blame on their politicians and then think that we've done our job. The motto carved in stone over the desk of the Presiding Officer in this Chamber is ''E Pluribus Unum,'' or, ''Out of Many, One.'' A more colloquial version of that might be, ''We're all in this together.''

The market in California for electricity and gas is broken in several respects. In the two hearings we have held before the Committee on Energy and Natural Resources, it is clear that the prices received by many generators are far above the cost of production. It is also clear that market signals are not getting through to consumers. The provisions of this bill, which I have inserted at the request of Senator FEINSTEIN, take on both of those issues. These provisions to help Californians deserve full and careful attention by the Senate, because this issue is worsening as we speak.

One of the best ways to protect against market volatility in energy is to diversify supply sources. I believe that much can be done to increase energy supplies from traditional resources, and the bills that I am introducing, taken together have a robust mix of tax and policy provisions to see that we continue to develop our domestic energy resources effectively. Of particular importance are countercyclical tax measures that kick in when prices fall to very low levels, so that new domestic production does not come to a standstill. If we can even out some of the boom-and-bust quality of our domestic oil and gas drilling, we will maintain both the production and the skilled labor force in oil and natural gas exploration and production that this country needs.

The bill that I am introducing does not open ANWR to oil and gas drilling. I find it ironic that, at the same time the President is seeking to open up ANWR a wildlife refuge, he is being importuned by his brother, the Governor of Florida, to put a large and promising tract in the deepwater Gulf of Mexico off limits to oil and gas leasing. The policy bill that I am introducing today mandates that the lease sale go forward on its current schedule.

Let me just make reference to that with this chart. This chart shows the area at issue. It is called the Sale 181 area. As you can see most of it is over 100 miles from Florida:

It is this area fully 100 miles from Florida we believe should be offered for development without hesitation. It is scheduled for December, and we do not believe it is good public policy for us to back away from developing resources in an area where we have a demonstrated history of safe and environmentally sensitive development. This area in the deepwater should be made available for leasing and exploration, and we believe it will be if this legislation becomes law.

Although the Democratic energy legislation does not open ANWR, it does take what I think is a meaningful step to make sure that the abundant natural gas in Alaska, which is produced around Prudhoe Bay, makes it to the lower 48 States where it is needed. The Democratic energy tax bill contains a tax incentive for any Alaskan gas that enters interstate commerce before January 1, 2009. This should be a significant inducement to producers to get the various proposals for pipelines between Alaska and the lower 48 sorted out, and to start building a pipeline to bring that gas to our markets as soon as possible.

In addition to traditional energy sources, both bills that I am introducing encourage alternative energy supplies. This bill gives a great deal of attention to renewable resources, such as wind, solar, geothermal, biomass, hydroelectric and other renewable generation options, as well as encouraging development and deployment of fuel cells, distributed generation and combined heating and power facilities. We require Federal energy facilities to set the example by meeting targets for percentages of their electricity supply to be derived from renewable resources. We also require that the rules for interconnection of electricity customers who self-generate, especially with renewable resources, be spelled out and made equitable. The bill would ease access to the transmission system for intermittent sources such as wind generators.

That is a brief summary of what the Democratic bill does on energy supply. But, as I mentioned in the beginning of my remarks, this bill balances its emphasis on supply with a strong emphasis on demand reduction and efficiency.

Increasing the efficient use of energy is the single most effective and least-cost energy policy for the short term and long term. Just yesterday, the Wall Street Journal ran an article titled "States Rediscover Energy Policies".

Mr. President, I ask unanimous consent, following my remarks, to have printed in the RECORD this article from yesterday's issue of the Wall Street Journal.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, the focus of the article is the fact that overall the last decade a number of States reduced their commitments to energy efficiency at a cost of 15,000 megawatts in power savings, and that now many States, through the National Association of State Energy Officials, are refocusing their attention on energy efficiency—the easiest and least cost source of energy.

Energy-efficient lighting, appliances, and buildings generate benefits in terms of energy savings, emission reductions and human health improvements. Improvements to installation practices for heating and cooling systems, including duct-work, could take considerable pressure off the power grid and natural gas supplies almost immediately.

We have included a number provisions that will help bring the next generation of ultra efficient appliances into the marketplace sooner. We would also establish a new program to make grants to local school districts to improve energy efficiency of school buildings and expand the use of renewable energy. Research has shown that better lighting, heating and cooling systems improve students' performance. We are urging the Secretary of Energy to work with energy-intensive industries to negotiate voluntary agreements to improve their energy intensity.

This bill also takes on the issue of energy efficiency in vehicles. That is a controversial issue. A lot has been said on this floor about the undesirability of depending on foreign sources of oil. But most of that oil goes into transportation fuel uses. If we're really serious about energy policy, climate policy, and national energy security, then we need to address vehicle fuel efficiency.

Hardly a speech is given on the Senate floor that does not talk about how unfortunate it is that our dependence on foreign oil continues to grow. We need to recognize what the main cause of that increased dependence is that we are consuming more and more petroleum in the transportation sector of our economy.

The top line on this chart shows the amount of consumption of petroleum in the transportation sector. This is up to the year 2000. Then you can see what is expected in the next 20 years with this enormous increase in the amount of petroleum going into our transportation sector.

The debate on fuel efficiency has often been sidetracked into a discussion of specific proposals to change the corporate average fuel economy, or CAFÉ standards. Disagreements on CAFÉ have kept us from making progress on fuel efficiency in this country at a huge cost to consumers and our economy.

At the same time, U.S.-based automobile manufacturers have entered into voluntary agreements with European countries to significantly increase the fuel efficiency of vehicles sold in Europe. While I recognize that there may be differences between Europe and the U.S., the concept of requiring a negotiation to see what can be done to further fuel efficiency in this country sounds like a reasonable idea to me. We ought to let the Department of Transportation take the lead, and authorize as much flexibility as possible in how an agreement is structured and what mechanisms are used to ensure the development of a vibrant market for fuel-efficient vehicles. That is exactly what this bill does on fuel efficiency does. It keeps the focus on the ultimate goal—how much petroleum gets consumed by light-duty vehicles. It allows consumption to grow slightly over the next few years, but requires implementation of policies that would cap the increase in fuel use in the light vehicle sector by the year 2008 by no more than 5 percent above the level of use in 2000. The effect of this proposal is to increase fuel efficiency by more than just closing the light truck "loophole" in the CAFÉ standards, while at the same time ensuring the light trucks needed by farmers, ranchers and businesses are still available. The flexibility with respect to the mechanisms, but not the final result, will protect U.S. manufacturing jobs.

Let me show another chart that relates to this. The chart is entitled ''Potential Oil Supply From Arctic National Wildlife Refuge versus the Oil Savings From Improved Vehicle Fuel Economy.''

You can see the amount of oil supply anticipated from ANWR, according to the U.S. Geological Survey. It is this first column. If you double that, if you assume that estimate is wrong and double it, you get this volume.

Vehicle fuel economy by the year 2010 will yield a much greater savings to us in oil usage than we could possibly achieve by drilling in ANWR, and by the year 2020 there is absolutely no comparison, as I am sure this chart aptly demonstrates.

Beyond increases in vehicle fuel efficiency, this bill also seeks to relieve stress on our fuel system by studying how to move to regional or national fuel standards, so that there is more flexibility in the fuel delivery system to accommodate refinery shutdowns or pipeline problems. The bill would also require Federal fleet vehicles with alternative dual fuel capability to increase their use of the alternative fuel to 50 percent of the total use by 2003, and 75 percent by 2005. In addition, State highway agencies would be permitted to allow alternative fuel vehicles to use High Occupancy Vehicle lanes on highways, regardless of the number of passengers carried.

Along with the commitment to implementing available technologies must come a long-term commitment to development of new technologies. This bill would establish the framework for a comprehensive research, development and deployment program to reduce energy intensity by 1.9 percent per year through 2020, reduce total consumption by eight quadrillion Btu in 2020 and reduce total carbon dioxide emission from expected levels by 166 million tons per year by 2020.

This kind of commitment to a coordinated, comprehensive research and development program is essential if we are to meet the challenges that lie before us. One of the biggest disappointments of the new administration to date is its lack of attention to the importance of science and technology in general, and of energy R&D in particular. By all accounts, the new Bush administration is preparing to savage DOE energy technology programs, particularly in renewables and energy efficiency, in the detailed budget that it will be sending to the Congress in early April. I don't see how the administration can have a credible energy strategy at the same time that it is cutting energy R&D.

The bill that I am introducing recognizes that our energy future depends crucially on our ability to innovate to produce more energy, at lower cost, and to use the resulting energy more efficiently.

The Clinton administration—the previous administration— prepared a comprehensive plan for boosting energy research and development spending, but it could find very little support for that proposal in Congress. That was in 1997. We have taken that blueprint and we have updated it to reflect some of the past appropriations by the Congress. I believe that we have come up with a broad approach to boost research and development spending for energy efficiency and for every energy supply option that is on the table.

This bill also supports basic science that is related to energy that may lead to discoveries that could create entirely new energy technologies, such as happened when high-temperature superconductivity was discovered in the late 1980s. The Department of Energy's Office of Science has had a stagnant budget throughout the 1990s. We now see evidence that this lag negatively affected our productivity in basic areas such as chemistry, physics, and material sciences. The U.S. scientific productivity in these disciplines, which support both energy research and develpment as well as research and development in other high-tech areas, is markedly lower now than during the 1970s and 1980s. Many of us in Congress are talking about the need to double the budget for the National Institutes of Health. The administration is talking about that as well. I support doing that. But there is a similar national need to greatly increase our support for basic energy research and development. This effort to maintain research and development in this energy area is absolutely essential if Congress is going to do what needs to be done in this area.

Tax Policy. Along with the programs outlined above, we need to consider the use of tax incentives to encourage commercial activities that will meet the goals for increased efficiency and diversification of our energy supplies. To accomplish this we have included tax credits and incentives to accompany the policy programs that we have authorized, such as, stimulus for residential and commercial energy efficiency, renewable energy development, clean coal technology, and distributed generation. To complement these incentives and encourage further development of new traditional supplies we have also provided for tax incentives for heating fuels and storage and oil and gas production.

Mr. President, the lights went off again this week in California. We are all aware of that. Electricity bills throughout the West are causing businesses to shut down because they can't afford to operate. We are threatened with that in my own state of New Mexico. Citizens across the country have seen their gas bills double and in some cases triple the level they were a year ago. If you drive up to the gasoline pump you will see numbers that would have surprised and shocked you not too long ago. I think the citizens of this Nation know that the energy industries are in trouble, and that actually will mean trouble for them. We in Congress—we in Washington—need to respond.

This bill is an attempt to further the dialogue that has already begun in this Congress. Consider it as an outline. We need to hold hearings. We need to debate how best to respond. We need to develop a balanced response that takes advantage of all the options that are available to us. We can't supply our way out of this unfortunate circumstance. We can't just conserve our way out of it either. We must do both. I expect many changes in the content of this bill before we are finally finished. But this is a good beginning toward a comprehensive and balanced energy policy for the Nation.

Mr. President, I ask unanimous consent that the text of both bills be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Energy Security and Tax Incentive Policy Act of 2001''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—ENERGY-EFFICIENT PROPERTY USED IN BUSINESS

SEC. 101. CREDIT FOR CERTAIN ENERGY-EFFICIENT PROPERTY USED IN BUSINESS.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following:

"SEC. 48A. ENERGY CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the energy credit for any taxable year is the energy percentage of the basis of each energy property placed in service during such taxable year.

"(b) ENERGY PERCENTAGE.—

"(1) IN GENERAL.—The energy percentage is—

"(A) except as otherwise provided in this subparagraph, 10 percent,

"(B) in the case of energy property described in clauses (i), (iii), and (vi) of subsection (c)(1)(A), 20 percent,

"(C) in the case of energy property described in subsection (c)(1)(A)(v), 15 percent,

"(D) in the case of energy property described in subsection (c)(1)(A)(ii) relating to a high risk geothermal well, 20 percent, and

"(E) in the case of energy property described in subsection (c)(1)(A)(vii), 30 percent.

"(2) COORDINATION WITH REHABILITATION.—The energy percentage shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

"(c) ENERGY PROPERTY DEFINED.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'energy property' means any property—

"(A) which is—

"(i) solar energy property,

"(ii) geothermal energy property,

"(iii) energy-efficient building property other than property described in clauses (iii)(I) and (v)(I) of subsection (d)(3)(A),

"(iv) combined heat and power system property,

"(v) low core loss distribution transformer property,

"(vi) qualified anaerobic digester property, or

"(vii) qualified wind energy systems equipment property,

"(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer.

"(C) which can reasonably be expected to remain in operation for at least 5 years,

"(D) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

"(E) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(ii) are in effect at the time of the acquisition of the property.

"(2) EXCEPTIONS.—

"(A) PUBLIC UTILITY PROPERTY.—Such term shall not include any property which is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), except for property described in paragraph (1)(A)(iv).

"(B) CERTAIN WIND EQUIPMENT.—Such term shall not include equipment described in paragraph (1)(A)(vii) which is taken into account for purposes of section 45 for the taxable year.

"(d) DEFINITIONS RELATING TO TYPES OF ENERGY PROPERTY.—For purposes of this section—

"(1) SOLAR ENERGY PROPERTY.—

"(A) IN GENERAL.—The term 'solar energy property' means equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat.

"(B) SWIMMING POOLS, ETC. USED AS STORAGE MEDIUM.—The term 'solar energy property' shall not include property with respect to which expenditures are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage.

"(C) SOLAR PANELS.—No solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as solar energy property solely because it constitutes a structural component of the structure on which it is installed.

"(2) GEOTHERMAL ENERGY PROPERTY.—

"(A) IN GENERAL.—The term 'geothermal energy property' means equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage.

"(B) HIGH RISK GEOTHERMAL WELL.—The term 'high risk geothermal well' means a geothermal deposit (within the meaning of section 613(e)(2)) which requires high risk drilling techniques. Such deposit may not be located in a State or national park or in an area in which the relevant State park authority or the National Park Service determines the development of such a deposit will negatively impact on a State or national park.

"(3) ENERGY-EFFICIENT BUILDING PROPERTY.—

"(A) IN GENERAL.—The term 'energy-efficient building property' means—

"(i) a fuel cell which—

"(I) generates electricity using an electrochemical process,

"(II) has an electricity-only generation efficiency greater than 30 percent, and

"(III) has a minimum generating capacity of 2 kilowatts,

"(ii) an electric heat pump hot water heater which yields an energy factor of 1.7 or greater under test procedures prescribed by the Secretary of Energy,

"(iii)(I) an electric heat pump which has a heating system performance factor (HSPF) of at least 8.5 but less than 9 and a cooling seasonal energy efficiency ratio (SEER) of at least 13.5 but less than 15,

"(II) an electric heat pump which has a heating system performance factor (HSPF) of 9 or greater and a cooling seasonal energy efficiency ratio (SEER) of 15 or greater,

"(iv) a natural gas heat pump which has a coefficient of performance of not less than 1.25 for heating and not less than 0.70 for cooling,

"(v)(I) a central air conditioner which has a cooling seasonal energy efficiency ratio (SEER) of at least 13.5 but less than 15,

"(II) a central air conditioner which has a cooling seasonal energy efficiency ratio (SEER) of 15 or greater,

"(vi) an advanced natural gas water heater which—

"(I) increases steady state efficiency and reduces standby and vent losses, and

"(II) has an energy factor of at least 0.65,

"(vii) an advanced natural gas furnace which achieves a 90 percent AFUE and rated for seasonal electricity use of less than 300 kWh per year, and

"(viii) natural gas cooling equipment which meets all applicable standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and which—

"(I) has a coefficient of performance of not less than .60, or

"(II) uses desiccant technology and has an efficiency rating of not less than 50 percent.

"(B) LIMITATIONS.—The credit under subsection (a) for the taxable year may not exceed—

"(i) $500 in the case of property described in subparagraph (A) other than clauses (i), (iv), and (viii) thereof,

"(ii) $500 for each kilowatt of capacity in the case of any fuel cell described in subparagraph (A)(i),

"(iii) $1,000 in the case of any natural gas heat pump described in subparagraph (A)(iv), and

"(iv) $150 for each ton of capacity in the case of any natural gas cooling equipment described in subparagraph (A)(viii).

"(4) COMBINED HEAT AND POWER SYSTEM PROPERTY.—

"(A) IN GENERAL.—The term 'combined heat and power system property' means property—

"(i) comprising a system for the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with steam, heat, or other forms of useful energy,

"(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(iii) which produces—

"(I) at least 20 percent of its total useful energy in the form of thermal energy, and

"(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or a combination thereof), and

"(iv) the energy efficiency percentage of which exceeds—

"(I) 60 percent in the case of a system with an electrical capacity of less than 1 megawatt),

"(II) 65 percent in the case of a system with an electrical capacity of not less than 1 megawatt and not in excess of 50 megawatts), and

''(III) 70 percent in the case of a system with an electrical capacity in excess of 50 megawatts).

''(B) SPECIAL RULES.—

''(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

''(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and

''(II) the denominator of which is the lower heating value of the primary fuel source for the system.

''(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

''(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(iv) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), the taxpayer may only claim the credit under subsection (a)(1) if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(5) LOW CORE LOSS DISTRIBUTION TRANSFORMER PROPERTY.—The term 'low core loss distribution transformer property' means a distribution transformer which has energy savings from a highly efficient core of at least 20 percent more than the average for power ratings reported by studies required under section 124 of the Energy Policy Act of 1992.

''(6) QUALIFIED ANAEROBIC DIGESTER PROPERTY.—The term 'qualified anaerobic digester property' means an anaerobic digester for manure or crop waste which achieves at least 65 percent efficiency measured in terms of the fraction of energy input converted to electricity and useful thermal energy.

''(7) QUALIFIED WIND ENERGY SYSTEMS EQUIPMENT PROPERTY.—The term 'qualified wind energy systems equipment property' means wind energy systems equipment with a turbine size of not more than 75 kilowatts rated capacity.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL DEVELOPMENT BONDS.—

''(A) REDUCTION OF BASIS.—For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by—

''(i) subsidized energy financing, or

''(ii) the proceeds of a private activity bond (within the meaning of section 141) the interest on which is exempt from tax under section 103, the amount taken into account as the basis of such property shall not exceed the amount which (but for this subparagraph) would be so taken into account multiplied by the fraction determined under subparagraph (B).

''(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is 1 reduced by a fraction—

''(i) the numerator of which is that portion of the basis of the property which is allocable to such financing or proceeds, and

''(ii) the denominator of which is the basis of the property.

''(C) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy.

''(2) CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(f) APPLICATION OF SECTION.—

''(1) IN GENERAL.—Except as provided by paragraph (2), this section shall apply to property placed in service after December 31, 2001, and before January 1, 2009.

''(2) EXCEPTIONS.—

''(A) SOLAR ENERGY AND GEOTHERMAL ENERGY PROPERTY.—Paragraph (1) shall not apply to solar energy property or geothermal energy property.

''(B) CERTAIN ELECTRIC HEAT PUMPS AND CENTRAL AIR CONDITIONERS.—In the case of property which is described in subsection (d)(3)(A)(iii)(I) or (d)(3)(A)(v)(I), this section shall apply to property placed in service after December 31, 2001, and before January 1, 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 48 is amended to read as follows:

''SEC. 48. REFORESTATION CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the reforestation credit for any taxable year is 20 percent of the portion of the amortizable basis of any qualified timber property which was acquired during such taxable year and which is taken into account under section 194 (after the application of section 194(b)(1)).

''(b) DEFINITIONS.—For purposes of this subpart, the terms 'amortizable basis' and 'qualified timber property' have the respective meanings given to such terms by section 194.''.

(2) Section 39(d) is amended by adding at the end the following:

''(10) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit determined under section 48A may be carried back to a taxable year ending before January 1, 2002.''.

(3) Section 280C is amended by adding at the end the following:

''(d) CREDIT FOR ENERGY PROPERTY EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the expenses for energy property (as defined in section 48A(c)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 48A(a).

''(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

''(A) the amount of the credit allowable for the taxable year under section 48A (determined without regard to section 38(c)), exceeds

''(B) the amount allowable as a deduction for the taxable year for expenses for energy property (determined without regard to paragraph (1)), the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

''(3) CONTROLLED GROUPS.—Paragraph (3) of subsection (b) shall apply for purposes of this subsection.''.

(4) Section 29(b)(3)(A)(i)(III) is amended by striking 'section 48(a)(4)(C)' and inserting 'section 48A(e)(1)(C)'.

(5) Section 50(a)(2)(E) is amended by striking 'section 48(a)(5)' and inserting 'section 48A(e)(2)'.

(6) Section 168(e)(3)(B) is amended—

(A) by striking clause (vi)(I) and inserting the following:

''(I) is described in paragraph (1) or (2) of section 48A(d) (or would be so described if 'solar and wind' were substituted for 'solar' in paragraph (1)(B)),'', and

(B) in the last sentence by striking ''section 48(a)(3)'' and inserting ''section 48A(c)(2)(A)''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48 and inserting the following:

''Sec. 48. Reforestation credit.
''Sec. 48A. Energy credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2001, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 102. ENERGY-EFFICIENT COMMERCIAL BUILDING PROPERTY DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following:

''SEC. 199. ENERGY-EFFICIENT COMMERCIAL BUILDING PROPERTY.

''(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the energy-efficient commercial building property expenditures made by a taxpayer for the taxable year.

''(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy-efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

''(1) $2.25, and

''(2) the square footage of the building with respect to which the expenditures are made.

''(c) YEAR DEDUCTION ALLOWED.—The deduction under subsection (a) shall be allowed in the taxable year in which the construction of the building is completed.

''(d) ENERGY-EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'energy-efficient commercial building property expenditures' means an amount paid or incurred for energy-efficient commercial building property installed on or in connection with new construction or reconstruction of property—

''(A) for which depreciation is allowable under section 167,

''(B) which is located in the United States, and

''(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1–1999 (described in paragraph (3)).

''(2) LABOR COSTS INCLUDED.—Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(3) ENERGY EXPENDITURES EXCLUDED.—Such term does not include any expenditures taken into account in determining any credit allowed under section 48A.

''(e) ENERGY-EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of subsection (d)—

''(1) IN GENERAL.—The term 'energy-efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by

50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1–1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (6).

''(2) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 1998 California Nonresidential ACM Manual. These procedures shall meet the following requirements:

''(A) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

''(B) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

''(i) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed, or

''(ii) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with subparagraph (C), and the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1–1999.

''(C) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

''(D) The calculational methods under this paragraph need not comply fully with section 11 of such Standard 90.1–1999.

''(E) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this section regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

''(F) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1–1999 or in the 1998 California Nonresidential ACM Manual, including the following:

''(i) Natural ventilation.

''(ii) Evaporative cooling.

''(iii) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

''(iv) Daylighting.

''(v) Designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating.

''(vi) Improved fan system efficiency, including reductions in static pressure.

''(vii) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

''(viii) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance.

''(3) COMPUTER SOFTWARE.—

''(A) IN GENERAL.—Any calculation under this subsection shall be prepared by qualified computer software.

''(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term 'qualified computer software' means software—

''(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

''(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

''(iii) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

''(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy-efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

''(5) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).

''(6) CERTIFICATION.—

''(A) IN GENERAL.—Except as provided in this paragraph, the Secretary, in consultation with the Secretary of Energy, shall establish requirements for certification and compliance procedures similar to the procedures under section 45F(d).

''(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

''(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with non-profit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

''(f) TERMINATION.—This section shall not apply with respect to any energy-efficient commercial building property expenditures in connection with property—

''(1) the plans for which are not certified under subsection (e)(6) on or before December 31, 2006, and

''(2) the construction of which is not completed on or before December 31, 2008.''.

(b) CONFORMING AMENDMENTS.—Section 1016(a) is amended by striking ''and'' at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting '', and'', and by inserting the following:

''(28) for amounts allowed as a deduction under section 199(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following:

''Sec. 199. Energy-efficient commercial building property.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 103. CREDIT FOR ENERGY-EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45E. ENERGY-EFFICIENT APPLIANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the energy-efficient appliance credit determined under this section for the taxable year is an amount equal to the applicable amount determined under subsection (b) with respect to qualified energy-efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a), the applicable amount determined under this subsection with respect to a taxpayer is the sum of—

''(1) in the case of an energy-efficient clothes washer described in subsection (d)(2)(A) or an energy-efficient refrigerator described in subsection (d)(3)(B)(i), an amount equal to—

''(A) $50, multiplied by

''(B) the number of such washers and refrigerators produced by the taxpayer during such calendar year, and

''(2) in the case of an energy-efficient clothes washer described in subsection (d)(2)(B) or an energy-efficient refrigerator described in subsection (d)(3)(B)(ii), an amount equal to—

''(A) $100, multiplied by

''(B) the number of such washers and refrigerators produced by the taxpayer during such calendar year.

''(c) LIMITATION ON MAXIMUM CREDIT.—

''(1) IN GENERAL.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall be—

''(A) $30,000,000 with respect to the credit determined under subsection (b)(1), and

''(B) $30,000,000 with respect to the credit determined under subsection (b)(2).

''(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

''(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

''(d) QUALIFIED ENERGY-EFFICIENT APPLIANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy-efficient appliance' means—

''(A) an energy-efficient clothes washer, or

''(B) an energy-efficient refrigerator.

''(2) ENERGY-EFFICIENT CLOTHES WASHER.—The term 'energy-efficient clothes washer' means a residential clothes washer, including a residential style coin operated washer, which is manufactured with—

''(A) a 1.26 Modified Energy Factor (referred to in this paragraph as 'MEF') (as determined by the Secretary of Energy), or

''(B) a 1.42 MEF (as determined by the Secretary of Energy) (1.5 MEF for calendar years beginning after 2004).

''(3) ENERGY-EFFICIENT REFRIGERATOR.—The term 'energy-efficient refrigerator' means an automatic defrost refrigerator-freezer which—

''(A) has an internal volume of at least 16.5 cubic feet, and

''(B) consumes—

''(i) 10 percent less kWh per year than the energy conservation standards promulgated by the Department of Energy for such refrigerator for 2001, or

''(ii) 15 percent less kWh per year than such energy conservation standards.

''(e) SPECIAL RULES.—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

''(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as one person for purposes of subsection (a).

''(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

''(g) TERMINATION.—This section shall not apply—

''(1) with respect to energy-efficient refrigerators described in subsection (d)(3)(B)(i) produced in calendar years beginning after 2005, and

''(2) with respect to all other qualified energy-efficient appliances produced in calendar years beginning after 2007.''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by section 101(b)(2), is amended by adding at the end the following:

''(11) NO CARRYBACK OF ENERGY-EFFICIENT APPLIANCE CREDIT BEFORE 2002.—No portion of the unused business credit for any taxable year which is attributable to the energy-efficient appliance credit determined under section 45E may be carried to a taxable year beginning before January 1, 2002.''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable), as amended by section 102(b)(3), is amended by adding at the end the following:

''(e) CREDIT FOR ENERGY-EFFICIENT APPLIANCE EXPENSES.—No deduction shall be allowed for that portion of the expenses for qualified energy-efficient appliances (as defined in section 45E(d)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45E(a).''.

(d) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following:

''(14) the energy-efficient appliance credit determined under section 45E(a).''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45D the following:

''Sec. 45E. Energy-efficient appliance credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE II—RESIDENTIAL ENERGY SYSTEMS

SEC. 201. CREDIT FOR CONSTRUCTION OF NEW ENERGY-EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 103(a), is amended by inserting after section 45E the following:

''SEC. 45F. NEW ENERGY-EFFICIENT HOME CREDIT.

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy-efficient property installed in a qualified new energy-efficient home during construction of such home.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed by this section with respect to a dwelling shall not exceed—

''(i) in the case of a dwelling described in subsection (c)(3)(D)(i), $1,500, and

''(ii) in the case of a dwelling described in subsection (c)(3)(D)(ii), $2,500.

''(B) PRIOR CREDIT AMOUNTS ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount under clause (i) or (ii) (as the case may be), reduced by the sum of the credits allowed under subsection (a) with respect to the dwelling for all prior taxable years.

''(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)) or to the energy percentage of energy property (as determined under section 48A(a)), and

''(B) expenditures taken into account under either section 47 or 48A(a) shall not be taken into account under this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the new energy-efficient home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), the manufactured home producer of such home.

''(2) ENERGY-EFFICIENT PROPERTY.—The term 'energy-efficient property' means any energy-efficient building envelope component, and any energy-efficient heating or cooling equipment which can, individually or in combination with other components, meet the requirements of this section.

''(3) QUALIFIED NEW ENERGY-EFFICIENT HOME.—The term 'qualified new energy-efficient home' means a dwelling—

''(A) located in the United States,

''(B) the construction of which is substantially completed after December 31, 2000,

''(C) the original use of which is as a principal residence (within the meaning of section 121) which commences with the person who acquires such dwelling from the eligible contractor, and

''(D) which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner which is at least—

''(i) 30 percent less than the annual level of heating and cooling energy consumption of a reference dwelling constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code, or

''(ii) 50 percent less than such annual level of heating and cooling energy consumption.

''(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

''(5) ACQUIRE.—The term 'acquire' includes purchase and, in the case of reconstruction and rehabilitation, such term includes a binding written contract for such reconstruction or rehabilitation.

''(6) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling when installed in or on such dwelling, and

''(B) exterior windows (including skylights) and doors.

''(7) MANUFACTURED HOME INCLUDED.—The term 'dwelling' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(d) CERTIFICATION.—

''(1) METHOD.—A certification described in subsection (c)(3)(D) shall be determined on the basis of 1 of the following methods:

''(A) A component-based method, using the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy-efficient building envelope component or energy-efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages that are equivalent in energy performance to properties that qualify under subparagraph (B).

''(B) An energy performance-based method that calculates projected energy usage and cost reductions in the dwelling in relation to a reference dwelling—

''(i) heated by the same energy source and heating system type, and

''(ii) constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

Computer software shall be used in support of an energy performance-based method certification under subparagraph (B). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 1998 California Residential Alternative Calculation Method Approval Manual.

''(2) PROVIDER.—Such certification shall be provided by—

''(A) in the case of a method described in paragraph (1)(A), a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

''(B) in the case of a method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—

''(A) IN GENERAL.—Such certification shall be made in writing in a manner that specifies in readily verifiable fashion the energy-efficient building envelope components and energy-efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and in the case of a method described in paragraph (1)(B), accompanied by written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

''(B) FORM PROVIDED TO BUYER.—A form documenting the energy-efficient building envelope components and energy-efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the dwelling. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and Solar Heat Gain Coefficient for windows, skylights, and doors, labeled AFUE ratings for furnaces and boilers, labeled HSPF ratings for electric heat pumps, and labeled SEER ratings for air conditioners.

''(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the dwelling, or shall be otherwise permanently displayed in a readily inspectable location in the dwelling.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for energy performance-based certification methods, the

Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a home to qualify for the credit under this section regardless of whether the dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) TERMINATION.—Subsection (a) shall apply to dwellings purchased during the period beginning on January 1, 2001, and ending on December 31, 2005.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit), as amended by section 103(d), is amended by striking ''plus'' at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting '', plus'', and by adding at the end the following:

''(15) the new energy-efficient home credit determined under section 45F.''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable), as amended by section 103(c), is amended by adding at the end the following:

''(f) NEW ENERGY-EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a new energy-efficient home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45F.''.

(d) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR NEW ENERGY EFFICIENT HOME CREDIT.—

''(A) IN GENERAL.—In the case of the new energy efficient home credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the new energy efficient home credit).

''(B) NEW ENERGY EFFICIENT HOME CREDIT.—For purposes of this subsection, the term 'new energy efficient home credit' means the credit allowable under subsection (a) by reason of section 45F.''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting ''or the new energy efficient home credit'' after ''employment credit''.

(e) LIMITATION ON CARRYBACK.—Subsection (d) of section 39, as amended by section 103(b), is amended by adding at the end the following:

''(12) NO CARRYBACK OF NEW ENERGY-EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45F may be carried back to any taxable year ending before January 1, 2001.''.

(f) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting '', and'', and by adding after paragraph (8) the following:

''(9) the new energy-efficient home credit determined under section 45F.''.

(g) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 103(d), is amended by inserting after the item relating to section 45E the following:

''Sec. 45F. New energy-efficient home credit.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2000.

SEC. 202. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

''SEC. 25B. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed $2,000.

''(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $2,000 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, or any combination of energy efficiency measures which achieves at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

''(1) such component or combinations of measures is installed in or on a dwelling—

''(A) located in the United States, and

''(B) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(2) the original use of such component or combination of measures commences with the taxpayer, and

''(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

''(e) CERTIFICATION.—The certification described in subsection (d) shall be—

''(1) in the case of any component described in subsection (d), determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components,

''(2) in the case of combinations of measures described in subsection (d), determined by the performance-based methods described in section 45F(d),

''(3) provided by a third party, such as a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, consistent with the requirements of section 45F(d)(2), and

''(4) made in writing on forms which specify in readily inspectable fashion the energy-efficient components and other measures and their respective efficiency ratings, and which shall include a permanent label affixed to the electrical distribution panel as described in section 45F(d)(3)(C).

''(f) DEFINITIONS AND SPECIAL RULES.—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having paid his proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling, and

''(B) exterior windows (including skylights) and doors.

''(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) TERMINATION.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on the date of the enactment of this section and ending on December 31, 2005.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 23 is amended by inserting '', section 25B, and section 1400C'' after ''other than this section''.

(2) Subparagraph (C) of section 25(e)(1) is amended by striking ''section 23'' and inserting ''sections 23, 25B, and 1400C''.

(3) Subsection (d) of section 1400C is amended by inserting ''and section 25B'' after ''other than this section''.

(4) Subsection (a) of section 1016, as amended by section 102(b), is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ''; and'', and by adding at the end the following:

''(29) to the extent provided in section 25B(f), in the case of amounts with respect to which a credit has been allowed under section 25B.''.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Energy efficiency improvements to existing homes.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after the date of the enactment of this Act.

SEC. 203. CREDIT FOR RESIDENTIAL SOLAR, WIND, AND FUEL CELL ENERGY PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 201(a), is amended by inserting after section 25B the following:

''SEC. 25C. RESIDENTIAL SOLAR, WIND, AND FUEL CELL ENERGY PROPERTY.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) 15 percent of the qualified photovoltaic property expenditures,

''(2) 15 percent of the qualified solar water heating property expenditures,

''(3) 30 percent of the qualified wind energy property expenditures, and

''(4) 20 percent for the qualified fuel cell property expenditures, made by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a)(2) shall not exceed $2,000 for each system of solar energy property.

''(2) TYPE OF PROPERTY.—No expenditure may be taken into account under this section unless such expenditure is made by the taxpayer for property installed on or in connection with a dwelling unit which is located in the United States and which is used as a residence.

''(3) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, and

''(B) in the case of a photovoltaic, wind energy, or fuel cell property, such property meets appropriate fire and electric code requirements.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property which uses solar energy to heat water for use in a dwelling unit with respect to which a majority of the energy is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit.

''(5) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for property which uses an electrochemical fuel cell system to generate electricity for use in a dwelling unit.

''(6) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), or (5) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

''(7) ENERGY STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which such individual owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) JOINT OWNERSHIP OF ITEMS OF SOLAR OR WIND ENERGY PROPERTY.—

''(A) IN GENERAL.—Any expenditure otherwise qualifying as an expenditure described in paragraph (1), (2), or (4) of subsection (c) shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

''(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

''(5) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of this paragraph, use for a swimming pool shall be treated as use which is not for residential purposes.

''(6) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(7) REDUCTION OF CREDIT FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—The rules of section 29(b)(3) shall apply for purposes of this section.

''(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) TERMINATION.—The credit allowed under this section shall not apply to taxable years beginning after December 31, 2011.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by section 201(b)(4), is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ''; and'', and by adding at the end the following:

''(30) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 201(b)(2), is amended by inserting after the item relating to section 25B the following:

''Sec. 25C. Residential solar, wind, and fuel cell energy property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after the date of the enactment of this Act, in taxable years ending after such date.

TITLE III—ELECTRICITY FACILITIES AND PRODUCTION

SEC. 301. INCENTIVE FOR DISTRIBUTED GENERATION.

(a) DEPRECIATION OF DISTRIBUTED POWER PROPERTY.—

(1) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to 7-year property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following:

''(ii) any distributed power property, and''.

(2) 10-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(i) the following:

''(C)(ii) .... 10''.

(b) DISTRIBUTED POWER PROPERTY.—Section 168(i) is amended by adding at the end the following:

''(15) DISTRIBUTED POWER PROPERTY.—The term 'distributed power property' means property—

''(A) which is used in the generation of electricity for primary use—

''(i) in nonresidential real or residential rental property used in the taxpayer's trade or business, or

''(ii) in the taxpayer's industrial manufacturing process or plant activity, with a rated total capacity in excess of 500 kilowatts,

''(B) which also may produce usable thermal energy or mechanical power for use in a heating or cooling application, as long as at least 40 percent of the total useful energy produced consists of—

''(i) with respect to assets described in subparagraph (A)(i), electrical power (whether sold or used by the taxpayer), or

''(ii) with respect to assets described in subparagraph (A)(ii), electrical power (whether sold or used by the taxpayer) and thermal or mechanical energy used in the taxpayer's industrial manufacturing process or plant activity,

''(C) which is not used to transport primary fuel to the generating facility or to distribute energy within or outside of the facility, and

''(D) where it is reasonably expected that not more than 50 percent of the produced electricity will be sold to, or used by, unrelated persons.

For purposes of subparagraph (B), energy output is determined on the basis of expected annual output levels, measured in British thermal units (Btu), using standard conversion factors established by the Secretary.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 302. MODIFICATIONS TO CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE AND WASTE PRODUCTS.

(a) INCREASE IN CREDIT RATE.—

(1) IN GENERAL.—Section 45(a)(1) is amended by striking ''1.5 cents'' and inserting ''1.8 cents''.

(2) CONFORMING AMENDMENTS.—

(A) Section 45(b)(2) is amended by striking ''1.5 cent'' and inserting ''1.8 cent''.

(B) Section 45(d)(2)(B) is amended by inserting ''(calendar year 2001 in the case of the 1.8 cent amount in subsection (a))'' after ''1992''.

(b) EXPANSION OF QUALIFIED RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (relating to qualified energy resources) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following:

''(D) alternative resources.''.

(2) DEFINITION OF ALTERNATIVE RESOURCES.—Section 45(c) (relating to definitions) is amended—

(A) by redesignating paragraph (3) as paragraph (5),

(B) by redesignating paragraph (4) as paragraph (3), and

(C) by inserting after paragraph (3), as redesignated by subparagraph (B), the following:

''(4) ALTERNATIVE RESOURCES.—

''(A) IN GENERAL.—The term 'alternative resources' means—

''(i) solar,

''(ii) biomass (other than closed loop biomass),

''(iii) municipal solid waste,

''(iv) incremental hydropower,

''(v) geothermal,

''(vi) landfill gas, and

''(vii) steel cogeneration.

''(B) BIOMASS.—The term 'biomass' means any solid, nonhazardous, cellulosic waste material or any organic carbohydrate matter, which is segregated from other waste materials, and which is derived from—

''(i) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber,

''(ii) waste pallets, crates, dunnage, untreated wood waste from construction or manufacturing activities, and landscape or right-of-way tree trimmings, but not including unsegregated municipal solid waste or post-consumer wastepaper, or

''(iii) any of the following agriculture sources: orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues, including any packaging and other materials which are nontoxic and biodegradable and are associated with the processing, feeding, selling, transporting, and disposal of such agricultural materials.

''(C) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the same meaning given the term 'solid waste' under section 2(27) of the Solid Waste Utilization Act (42 U.S.C. 6903).

''(D) INCREMENTAL HYDROPOWER.—The term 'incremental hydropower' means additional generating capacity achieved from—

''(i) increased efficiency, or

''(ii) additions of new capacity,

at a licensed non-Federal hydroelectric project originally placed in service before the date of the enactment of this paragraph.

''(E) GEOTHERMAL.—The term 'geothermal' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage.

''(F) LANDFILL GAS.—The term 'landfill gas' means gas generated from the decomposition of any household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as such terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.).

''(G) STEEL COGENERATION.—The term 'steel cogeneration' means the production of electricity and steam (or other form of thermal energy) from any or all waste sources defined in paragraphs (2) and (3) and subparagraphs (B) and (C) of this paragraph within an operating facility which produces or integrates the production of coke, direct reduced iron ore, iron, or steel provided that the cogeneration meets any regulatory energy-efficiency standards established by the Secretary, and only to the extent that such energy is produced from—

''(i) gases or heat generated from the production of metallurgical coke,

''(ii) gases or heat generated from the production of direct reduced iron ore or iron, from blast furnace or direct ironmaking processes, or

''(iii) gases or heat generated from the manufacture of steel.''.

(3) QUALIFIED FACILITY.—Section 45(c)(5) (defining qualified facility), as redesignated by paragraph 2(A), is amended by adding at the end the following:

''(D) ALTERNATIVE RESOURCES FACILITY.—

''(i) IN GENERAL.—Except as provided in clauses (ii), (iii), and (iv), in the case of a facility using alternative resources to produce electricity, the term 'qualified facility' means any facility of the taxpayer which is originally placed in service after the date of the enactment of this subparagraph.

''(ii) BIOMASS FACILITY.—In the case of a facility using biomass described in paragraph (4)(A)(ii) to produce electricity, the term 'qualified facility' means any facility of the taxpayer.

''(iii) GEOTHERMAL FACILITY.—In the case of a facility using geothermal to produce electricity, the term 'qualified facility' means any facility of the taxpayer which is originally placed in service after December 31, 1992.

''(iv) STEEL COGENERATION FACILITIES.—In the case of a facility using steel cogeneration to produce electricity, the term 'qualified facility' means any facility permitted to operate under the environmental requirements of the Clean Air Act Amendments of 1990 which is owned by the taxpayer and originally placed in service after the date of the enactment of this subparagraph. Such a facility may be treated as originally placed in service when such facility was last upgraded to increase efficiency or generation capability after such date.

''(v) SPECIAL RULES.—In the case of a qualified facility described in this subparagraph, the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.''.

(4) GOVERNMENT-OWNED FACILITY.—Section 45(d)(6) (relating to credit eligibility in the case of government-owned facilities using poultry waste) is amended—

(A) by inserting ''or alternative resources'' after ''poultry waste'', and

(B) by inserting ''OR ALTERNATIVE RESOURCES'' after ''POULTRY WASTE'' in the heading thereof.

(5) QUALIFIED FACILITIES WITH CO-PRODUCTION.—Section 45(b) (relating to limitations

and adjustments) is amended by adding at the end the following:

"(4) INCREASED CREDIT FOR CO-PRODUCTION FACILITIES.—

"(A) IN GENERAL.—In the case of a qualified facility described in subsection (c)(3)(D)(i) which has a co-production facility or a qualified facility described in subparagraph (A), (B), or (C) of subsection (c)(3) which adds a co-production facility after the date of the enactment of this paragraph, the amount in effect under subsection (a)(1) for an eligible taxable year of a taxpayer shall (after adjustment under paragraph (2) and before adjustment under paragraphs (1) and (3)) be increased by .25 cents.

"(B) CO-PRODUCTION FACILITY.—For purposes of subparagraph (A), the term 'co-production facility' means a facility which—

"(i) enables a qualified facility to produce heat, mechanical power, chemicals, liquid fuels, or minerals from qualified energy resources in addition to electricity, and

"(ii) produces such energy on a continuous basis.

"(C) ELIGIBLE TAXABLE YEAR.—For purposes of subparagraph (A), the term 'eligible taxable year' means any taxable year in which the amount of gross receipts attributable to the co-production facility of a qualified facility are at least 10 percent of the amount of gross receipts attributable to electricity produced by such facility.".

(6) QUALIFIED FACILITIES LOCATED WITHIN QUALIFIED INDIAN LANDS.—Section 45(b) (relating to limitations and adjustments), as amended by paragraph (5), is amended by adding at the end the following:

"(5) INCREASED CREDIT FOR QUALIFIED FACILITY LOCATED WITHIN QUALIFIED INDIAN LAND.—In the case of a qualified facility described in subsection (c)(3)(D) which—

"(A) is located within—

"(i) qualified Indian lands (as defined in section 7871(c)(3)), or

"(ii) lands which are held in trust by a Native Corporation (as defined in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)) for Alaska Natives, and

"(B) is operated with the explicit written approval of the Indian tribal government or Native Corporation (as so defined) having jurisdiction over such lands,

the amount in effect under subsection (a)(1) for a taxable year shall (after adjustment under paragraphs (2) and (4) and before adjustment under paragraphs (1) and (3)) be increased by .25 cents.".

(7) ELECTRICITY PRODUCED FROM CERTAIN RESOURCES CO-FIRED IN COAL PLANTS.—Section 45(d) (relating to definitions and special rules) is amended by adding at the end the following:

"(8) SPECIAL RULE FOR ELECTRICITY PRODUCED FROM CERTAIN RESOURCES CO-FIRED IN COAL PLANTS.—In the case of electricity produced from biomass (including closed loop biomass), municipal solid waste, or animal waste, co-fired in a facility which produces electricity from coal—

"(A) subsection (a)(1) shall be applied by substituting '1 cent' for '1.8 cents',

"(B) such facility shall be considered a qualified facility for purposes of this section, and

"(C) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this paragraph.".

(8) CONFORMING AMENDMENTS.—

(A) The heading for section 45 is amended by inserting "and waste energy" after "renewable".

(B) The item relating to section 45 in the table of sections subpart D of part IV of subchapter A of chapter 1 is amended by inserting "and waste energy" after "renewable".

(c) ADDITIONAL MODIFICATIONS OF RENEWABLE AND WASTE ENERGY RESOURCE CREDIT.—

(1) CREDITS FOR CERTAIN TAX EXEMPT ORGANIZATIONS AND GOVERNMENTAL UNITS.—Section 45(d) (relating to definitions and special rules), as amended by subsection (b)(7), is amended by adding at the end the following:

"(9) CREDITS FOR CERTAIN TAX EXEMPT ORGANIZATIONS AND GOVERNMENTAL UNITS.—

"(A) ALLOWANCE OF CREDIT.—Any credit which would be allowable under subsection (a) with respect to a qualified facility of an entity if such entity were not exempt from tax under this chapter shall be treated as a credit allowable under subpart C to such entity if such entity is—

"(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(ii) an organization described in section 1381(a)(2)(C), or

"(iii) an entity the income of which is excludable from gross income under section 115.

"(B) USE OF CREDIT.—

"(i) TRANSFER OF CREDIT.—An entity described in subparagraph (A) may assign, trade, sell, or otherwise transfer any credit allowable to such entity under subparagraph (A) to any taxpayer.

"(ii) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of an entity described in clause (i) or (ii) of subparagraph (A), any credit allowable to such entity under subparagraph (A) may be applied by such entity, without penalty, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).

"(C) CREDIT NOT INCOME.—Neither a transfer under clause (i) or a use under clause (ii) of subparagraph (B) of any credit allowable under subparagraph (A) shall result in income for purposes of section 501(c)(12).

"(D) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by an entity described in subparagraph (A)(iii) from the transfer of any credit under subparagraph (B)(i) shall be treated as arising from an essential government function.

"(E) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Subsection (b)(3) shall not apply to reduce any credit allowable under subparagraph (A) with respect to—

"(i) proceeds described in subparagraph (A)(ii of such subsection, or

"(ii) any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.),

used to provide financing for any qualified facility.

"(F) TREATMENT OF UNRELATED PERSONS.—For purposes of this paragraph, sales among and between entities described in subparagraph (A) shall be treated as sales between unrelated parties.".

(2) COORDINATION WITH OTHER CREDITS.—Section 45(d), as amended by paragraph (1), is amended by adding at the end the following:

"(10) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any qualified facility with respect to which a credit under any other section is allowed for the taxable year unless the taxpayer elects to waive the application of such credit to such facility.".

(3) EXPANSION TO INCLUDE ANIMAL WASTE.—Section 45 (relating to electricity produced from certain renewable resources), as amended by paragraphs (2) and (4) of subsection (b), is amended—

(A) by striking "poultry" each place it appears in subsection (c)(1)(C) and subsection (d)(6) and inserting "animal",

(B) by striking "POULTRY" in the heading of paragraph (6) of subsection (d) and inserting "ANIMAL",

(C) by striking paragraph (3) of subsection (c) and inserting the following:

"(3) ANIMAL WASTE.—The term 'animal waste' means poultry manure and litter and other animal wastes, including—

"(A) wood shavings, straw, rice hulls, and other bedding material for the disposition of manure, and

"(B) byproducts, packaging, and other materials which are nontoxic and biodegradable and are associated with the processing, feeding, selling, transporting, and disposal of such animal wastes.", and

(D) by striking subparagraph (C) of subsection (c)(5) and inserting the following:

"(C) ANIMAL WASTE FACILITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), in the case of a facility using animal waste (other than poultry) to produce electricity, the term 'qualified facility' means any facility of the taxpayer which is originally placed in service after the date of the enactment of this clause.

"(ii) POULTRY WASTE.—In the case of a facility using animal waste relating to poultry to produce electricity, the term 'qualified facility' means any facility of the taxpayer which is originally placed in service after December 31, 1999.".

(4) TREATMENT OF QUALIFIED FACILITIES NOT IN COMPLIANCE WITH POLLUTION LAWS.—Section 45(c)(5) (relating to qualified facilities), as amended by paragraphs (2) and (3) of subsection (b), is amended by adding at the end the following:

"(E) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this paragraph, a facility which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified facility during such period.".

(5) PERMANENT EXTENSION OF QUALIFIED FACILITY DATES.—Section 45(c)(5) (relating to qualified facility), as redesignated by subsection (b)(2), is amended by striking ", and before January 1, 2002" in subparagraphs (A) and (B).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity and other energy produced after the date of the enactment of this Act.

SEC. 303. TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.

(a) IN GENERAL.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

"(k) SOLID WASTE DISPOSAL FACILITIES.—For purposes of subsection (a)(6), the term 'solid waste disposal facilities' includes property located in Hawaii and used for the collection, storage, treatment, utilization, processing, or final disposal of bagasse in the manufacture of ethanol.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 304. DEPRECIATION OF PROPERTY USED IN THE TRANSMISSION OF ELECTRICITY.

(a) DEPRECIATION OF PROPERTY USED IN THE TRANSMISSION OF ELECTRICITY.—

(1) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to 7-year property), as amended by section 301(a)(1), is amended by striking "and" at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following:

"(iii) any property used in the transmission of electricity, and".

(2) 10-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B), as amended by section 301(a)(2), is amended by inserting after the item relating to subparagraph (C)(ii) the following:

''(C)(iii) .... 10''.

(b) DEFINITION OF PROPERTY USED IN THE TRANSMISSION OF ELECTRICITY.—Section 168(i), as amended by section 301(b), is amended by adding at the end the following:

''(16) PROPERTY USED IN THE TRANSMISSION OF ELECTRICITY.—The term 'property used in the transmission of electricity' means property used in the transmission of electricity for sale.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

TITLE IV—INCENTIVES FOR EARLY COMMERCIAL APPLICATIONS OF ADVANCED CLEAN COAL TECHNOLOGIES

SEC. 401. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following:

''(4) the qualifying advanced clean coal technology facility credit.''.

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by section 101(a), is amended by inserting after section 48A the following:

''SEC. 48B. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology facility credit for any taxable year is an amount equal to 10 percent of the qualified investment in a qualifying advanced clean coal technology facility for such taxable year.

''(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology facility' means a facility of the taxpayer which—

''(A)(i)(I) replaces a conventional technology facility of the taxpayer and the original use of which commences with the taxpayer, or

''(II) is a retrofitted or repowered conventional technology facility, the retrofitting or repowering of which is completed by the taxpayer (but only with respect to that portion of the basis which is properly attributable to such retrofitting or repowering), or

''(ii) is acquired through purchase (as defined by section 179(d)(2)),

''(B) is depreciable under section 167,

''(C) has a useful life of not less than 4 years,

''(D) is located in the United States, and

''(E) uses qualifying advanced clean coal technology.

''(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a facility which—

''(A) is originally placed in service by a person, and

''(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such facility was originally placed in service, for a period of not less than 12 years,

such facility shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

''(3) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualifying advanced clean coal technology' means, with respect to clean coal technology—

''(i) multiple applications, with a combined capacity of not more than 2,000 megawatts, of advanced pulverized coal or atmospheric fluidized bed combustion technology—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2011, and

''(III) with a design net heat rate of not more than 9,500 Btu per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less,

''(ii) multiple applications, with a combined capacity of not more than 1,000 megawatts, of pressurized fluidized bed combustion technology—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2015, and

''(III) with a design net heat rate of not more than 8,400 Btu per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less,

''(iii) multiple applications, with a combined capacity of not more than 5,000 megawatts, of integrated gasification combined cycle technology, with or without fuel or chemical co-production—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2015,

''(III) with a design net heat rate of not more than 8,550 Btu per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less, and

''(IV) with a net thermal efficiency on any fuel or chemical co-production of not less than 39 percent (higher heating value), and

''(iv) multiple applications, with a combined capacity of not more than 2,000 megawatts of technology for the production of electricity—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2015, and

''(III) with a carbon emission rate which is not more than 85 percent of conventional technology.

''(B) EXCEPTIONS.—Such term shall not include clean coal technology projects receiving or scheduled to receive funding under the Clean Coal Technology Program of the Department of Energy.

''(C) CLEAN COAL TECHNOLOGY.—The term 'clean coal technology' means advanced technology which uses coal to produce 75 percent or more of its thermal output as electricity including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle with or without fuel or chemical co-production, and any other technology for the production of electricity which exceeds the performance of conventional technology.

''(D) CONVENTIONAL TECHNOLOGY.—The term 'conventional technology' means—

''(i) coal-fired combustion technology with a design net heat rate of not less than 9,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.54 pounds of carbon per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound,

''(ii) coal-fired combustion technology with a design net heat rate of not less than 10,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.60 pounds of carbon per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less, or

''(iii) natural gas-fired combustion technology with a design net heat rate of not less than 7,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.24 pounds of carbon per kilowatt hour.

''(E) DESIGN NET HEAT RATE.—The design net heat rate shall be based on the design annual heat input to and the design annual net electrical output from the qualifying advanced clean coal technology (determined without regard to such technology's co-generation of steam).

''(F) SELECTION CRITERIA.—Selection criteria for clean coal technology facilities—

''(i) shall be established by the Secretary of Energy as part of a competitive solicitation,

''(ii) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, and lowest cost to the government, and

''(iii) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

''(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a facility which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology facility during such period.

''(c) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology facility placed in service by the taxpayer during such taxable year.

''(d) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (c) without regard to this section) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology facility which is being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

''(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

''(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

''(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

''(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

''(e) CREDITS FOR CERTAIN TAX EXEMPT ORGANIZATIONS AND GOVERNMENTAL UNITS.—

''(1) ALLOWANCE OF CREDIT.—Any credit which would be allowable under subsection (a) with respect to a qualifying advanced clean coal technology facility of an entity if such entity were not exempt from tax under this chapter shall be treated as a credit allowable under subpart C to such entity if such entity is—

''(A) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(B) an organization described in section 1381(a)(2)(C),

''(C) an entity the income of which is excludable from gross income under section 115, or

''(D) the Tennessee Valley Authority.

''(2) USE OF CREDIT.—

''(A) TRANSFER OF CREDIT.—An entity described in subparagraph (A), (B), or (C) of paragraph (1) may assign, trade, sell, or otherwise transfer any credit allowable to such entity under paragraph (1) to any taxpayer.

''(B) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of an entity described in subparagraph (A) or (B) of paragraph (1), any credit allowable to such entity under paragraph (1) may be applied by such entity, without penalty, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).

''(C) USE BY TVA.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, in the case of an entity described in paragraph (1)(D), any credit allowable under paragraph (1) to such entity may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

''(ii) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1) shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

''(iii) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described in paragraph (1) exceeds the aggregate amount of payment obligations described in clause (i), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this subparagraph.

''(3) CREDIT NOT INCOME.—Neither a transfer under subparagraph (A) or a use under subparagraph (B) of paragraph (2) of any credit allowable under paragraph (1) shall result in income for purposes of section 501(c)(12).

''(4) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by an entity described in paragraph (1)(C) from the transfer of any credit under paragraph (2)(A) shall be treated as arising from an essential government function.

''(f) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48A is allowed unless the taxpayer elects to waive the application of such credit to such property.

''(g) TERMINATION.—This section shall not apply with respect to any qualified investment made more than 10 years after the effective date of this section.''.

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following:

''(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48B, the following shall apply:

''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology facility (as defined by section 48B(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology facility disposed of, and whose denominator is the total number of years over which such facility would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology facility property shall be treated as a year of remaining depreciation.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology facility under section 48B, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology facility.''.

(d) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by section 201(e), is amended by adding at the end the following:

''(13) NO CARRYBACK OF SECTION 48B CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology facility credit determined under section 48B may be carried back to a taxable year ending before January 1, 2002.''.

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) the portion of the basis of any qualifying advanced clean coal technology facility attributable to any qualified investment (as defined by section 48B(c)).''.

(2) Section 50(a)(4) is amended by striking ''and (2)'' and inserting ''(2), and (6)''.

(3) Section 50(c) is amended by adding at the end the following:

''(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any advanced clean coal technology facility credit under section 48B.''.

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by section 101(c), is amended by inserting after the item relating to section 48A the following:

''Sec. 48B. Qualifying advanced clean coal technology facility credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2001, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 402. CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits), as amended by section 201(a), is amended by adding at the end the following:

''SEC. 45G. CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

''(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

''(1) the applicable amount of advanced clean coal technology production credit, multiplied by

''(2) the sum of—

''(A) the kilowatt hours of electricity, plus

''(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology facility during the 10-year period beginning on the date the facility was originally placed in service.

''(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology facility shall be determined as follows:

''(1) Where the design coal has a heat content of more than 8,000 Btu per pound:

''(A) In the case of a facility originally placed in service before 2008, if—

''The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400	$.0050	$.0030
More than 8,400 but not more than 8,550.	$.0010	$.0010
More than 8,550 but not more than 8,750.	$.0005	$.0005.

''(B) In the case of a facility originally placed in service after 2007 and before 2012, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0090	$.0075
More than 7,770 but not more than 8,125.	$.0070	$.0050
More than 8,125 but not more than 8,350.	$.0060	$.0040.

"(C) In the case of a facility originally placed in service after 2011 and before 2015, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0120	$.0090
More than 7,380 but not more than 7,720.	$.0095	$.0070.

"(2) Where the design coal has a heat content of not more than 8,000 Btu per pound:

"(A) In the case of a facility originally placed in service before 2008, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0050	$.0030
More than 8,500 but not more than 8,650.	$.0010	$.0010
More than 8,650 but not more than 8,750.	$.0005	$.0005.

"(B) In the case of a facility originally placed in service after 2007 and before 2012, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,000	$.0090	$.0075
More than 8,000 but not more than 8,250.	$.0070	$.0050
More than 8,250 but not more than 8,400.	$.0060	$.0040.

"(C) In the case of a facility originally placed in service after 2011 and before 2015, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,800	$.0120	$.0090
More than 7,800 but not more than 7,950.	$.0095	$.0070.

"(3) Where the clean coal technology facility is producing fuel or chemicals:

"(A) In the case of a facility originally placed in service before 2008, if—

"The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	$.0050	$.0030
Less than 40.6 but not less than 40 percent.	$.0010	$.0010
Less than 40 but not less than 39 percent.	$.0005	$.0005.

"(B) In the case of a facility originally placed in service after 2007 and before 2012, if—

"The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent	$.0090	$.0075
Less than 43.9 but not less than 42 percent.	$.0070	$.0050
Less than 42 but not less than 40.9 percent.	$.0060	$.0040.

"(C) In the case of a facility originally placed in service after 2011 and before 2015, if—

"The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	$.0120	$.0090
Less than 44.2 but not less than 43.6 percent.	$.0095	$.0070.

"(c) INFLATION ADJUSTMENT FACTOR.—For calendar years after 2001, each amount in paragraphs (1), (2), and (3) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 48B shall have the meaning given such term in section 48B.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) and section 48B(e) shall apply.

"(3) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2000.

"(4) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by section 201(b), is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following:

"(16) the qualifying advanced clean coal technology production credit determined under section 45G(a).".

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by section 401(d), is amended by adding at the end the following:

"(14) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 201(g), is amended by adding at the end the following:

"Sec. 45G. Credit for production from qualifying advanced clean coal technology.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act.

SEC. 403. RISK POOL FOR QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a financial risk pool which shall be available to any United States owner of a qualifying advanced clean coal technology which has qualified for an advanced clean coal technology production credit (as defined in section 45G of the Internal Revenue Code of 1986, as added by section 402) to offset for the first 3 years of the operation of such technology the costs (not to exceed 5 percent of the total cost of installation) for modifications resulting from the technology's failure to achieve its design performance.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

TITLE V—HEATING FUELS AND STORAGE.

SEC. 501. FULL EXPENSING OF HOME HEATING OIL AND PROPANE STORAGE FACILITIES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following:

"(5) FULL EXPENSING OF HOME HEATING OIL AND PROPANE STORAGE FACILITIES.—Paragraphs (1) and (2) shall not apply to section 179 property which is any storage facility (not including a building or its structural components) used in connection with the distribution of home heating oil or liquefied petroleum gas.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

SEC. 502. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS AND OTHER COMMODITIES.

(a) IN GENERAL.—Subsection (b) of section 148 (defining higher yielding investments) is amended by adding at the end the following:

"(4) INVESTMENT PROPERTY NOT TO INCLUDE CERTAIN PREPAYMENTS TO ENSURE COMMODITY SUPPLY.—The term 'investment property' shall not include a prepayment entered into for the purpose of obtaining a supply of a commodity reasonably expected to be used in a business of one or more utilities each of which is owned and operated by a State or local government, any political subdivision or instrumentality thereof, or any governmental unit acting for or on behalf of such a utility.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 503. PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS AND OTHER COMMODITIES.

(a) IN GENERAL.—Section 141(c)(2) (providing exceptions to the private loan financing test) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following:

"(C) arises from a transaction described in section 148(b)(4).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

TITLE VI—OIL AND GAS PRODUCTION

SEC. 601. CREDIT FOR PRODUCTION OF RE-REFINED LUBRICATING OIL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 402(a), is amended by adding at the end the following:

"SEC. 45H. CREDIT FOR PRODUCING RE-REFINED LUBRICATING OIL.

''(a) GENERAL RULE.—For purposes of section 38, the re-refined lubricating oil production credit of any taxpayer for any taxable year is equal to $4.05 per barrel of qualified re-refined lubricating oil production which is attributable to the taxpayer (within the meaning of section 29(d)(3)).

''(b) QUALIFIED RE-REFINED LUBRICATING OIL PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified re-refined lubricating oil production' means a base oil manufactured from at least 95 percent used oil and not more than 2 percent of previously unused oil by a re-refining process at a qualified facility which effectively removes physical and chemical impurities and spent and unspent additives to the extent that such base oil meets industry standards for engine oil as defined by the American Petroleum Institute document API 1509 as in effect on the date of the enactment of this section.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—Re-refined lubricating oil produced during any taxable year shall not be treated as qualified re-refined lubricating oil production but only to the extent average daily production during the taxable year exceeds 7,000 barrels.

''(3) BARREL.—The term 'barrel' has the meaning given such term by section 613A(e)(4).

''(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of paragraph (1), a facility which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified facility during such period.

(c) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2001, the dollar amount contained in subsection (a) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 29(d)(2)(B) by substituting '2000' for '1979').''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 402(b), is amended by striking 'plus' at the end of paragraph (15), by striking the period at the end of paragraph (16), and inserting ', plus', and by adding at the end the following:

''(17) the re-refined lubricating oil production credit determined under section 45H(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 402(d), is amended by adding at the end the following:

''Sec. 45H. Credit for producing re-refined lubricating oil.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act.

SEC. 602. OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by section 601(a), is amended by adding at the end the following:

"SEC. 45I. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $14 ($1.56 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2001, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2000' for '1990').

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a qualified marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated or qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.

''(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsection (c)(3)(A), a marginal well which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified marginal well during such period.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by section 601(b), is amended by striking 'plus' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following:

''(18) the marginal oil and gas well production credit determined under section 45I(a).''.

(c) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 201(d)(1), is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following:

''(4) SPECIAL RULES FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—

''(A) IN GENERAL.—In the case of the marginal oil and gas well production credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the marginal oil and gas well production credit).

''(B) MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—For purposes of this subsection, the term 'marginal oil and gas well production credit' means the credit allowable under subsection (a) by reason of section 45I(a).''.

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 201(d)(2), and subclause (II) of section 38(c)(3)(A)(ii), as added by section 201(d)(1), are each amended by inserting ''or the marginal oil and gas well production credit'' after ''home credit''.

(d) CARRYBACK.—Subsection (a) of section 39 (relating to carryback and carryforward of unused credits generally) is amended by adding at the end the following:

''(3) 10-YEAR CARRYBACK FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—In the case of the marginal oil and gas well production credit—

''(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

''(B) paragraph (1) shall be applied by substituting '10 taxable years' for '1 taxable years' in subparagraph (A) thereof, and

''(C) paragraph (2) shall be applied—

''(i) by substituting '31 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

''(ii) by substituting '30 taxable years' for '20 taxable years' in subparagraph (A) thereof.''.

(e) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter I, as amended by section 601(c), is amended by adding at the end the following:

''Sec. 45I. Credit for producing oil and gas from marginal wells.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2001.

SEC. 603. DEDUCTION FOR DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding at the end the following:

''(j) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a taxpayer may elect to treat delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) as payments which are not chargeable to capital account. Any payments so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

''(2) DELAY RENTAL PAYMENTS.—For purposes of paragraph (1), the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.''.

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting ''263(j),'' after '263(i),'.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001.

SEC. 604. ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 263 (relating to capital expenditures), as amended by section 603(a), is amended by adding at the end the following:

''(k) GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.—Notwithstanding subsection (a), a taxpayer may elect to treat geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) as expenses which are not chargeable to capital account. Any expenses so treated shall be allowed as a deduction in the taxable year in which paid or incurred.''.

(b) CONFORMING AMENDMENT.—Section 263A(c)(3), as amended by section 603(b), is amended by inserting ''263(k),'' after ''263(j),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2001.

SEC. 605. GAS PIPELINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property), as amended by section 304(a)(1), is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following:

''(iv) any gas pipeline, and''.

(b) GAS PIPELINE.—Subsection (i) of section 168, as amended by section 304(b), is amended by adding at the end the following:

''(17) GAS PIPELINE.—The term 'gas pipeline' means the pipe, storage facilities, equipment, distribution infrastructure, and appurtenances used to deliver natural gas.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

(2) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If any gas pipeline is public utility property (as defined in section 46(f)(5) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), the amendments made by this section shall only apply to such property if, with respect to such property, the taxpayer uses a normalization method of accounting.

SEC. 606. CRUDE OIL AND NATURAL GAS DEVELOPMENT CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 602(a), is amended by adding at the end the following:

''SEC. 45J. CRUDE OIL AND NATURAL GAS DEVELOPMENT CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the crude oil and natural gas development credit determined under this section for any taxable year shall be an amount equal to the taxpayer's qualified investment for the taxable year.

''(b) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this subsection) as—

''(A) the excess (if any) of the applicable reference price over $11, bears to

''(B) $3.

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

''(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2001, each of the dollar amounts contained in paragraph (1) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2000' for '1990').

''(3) REFERENCE PRICE.—For purposes of this subsection, the term 'reference price' means, with respect to any calendar year, the reference price determined under section 29(d)(2)(C).

''(c) QUALIFIED INVESTMENT.—For purposes of this section, the term 'qualified investment' means amounts paid or incurred—

''(1) for the purpose of drilling and equipping crude oil and natural gas wells (including pollution control equipment used in connection with such wells), or

''(2) for the purpose of performing secondary or tertiary recovery techniques, on properties located within the United States (as defined in section 638), but only to the extent that the expenditure is not taken into account for purposes of a credit under any other section.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION OF QUALIFIED INVESTMENT EXPENSES.—

''(A) CONTROLLED GROUPS; COMMON CONTROL.—In determining the amount of the credit under this section, all members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as a single taxpayer for purposes of this section.

''(B) APPORTIONMENT OF CREDIT.—The credit (if any) allowable by this section to members of any group (or to any person) described in subparagraph (A) shall be such member's or person's proportionate share of the qualified investment expenses giving rise to the credit determined under regulations prescribed by the Secretary.

''(2) PARTNERSHIPS, S CORPORATIONS, ESTATES AND TRUSTS.—

''(A) PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership, the credit shall be allocated among partners under regulations prescribed by the Secretary. A similar rule shall apply in the case of an S corporation and its shareholders.

''(B) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ADJUSTMENTS FOR CERTAIN ACQUISITIONS AND DISPOSITIONS.—Under regulations prescribed by the Secretary, rules similar to the rules contained in section 41(f)(3) shall apply with respect to the acquisition or disposition of a taxpayer.

''(4) SHORT TAXABLE YEARS.—In the case of any short taxable year, qualified investment expenses shall be annualized in such circumstances and under such methods as the Secretary may prescribe by regulation.

''(5) DENIAL OF DOUBLE BENEFIT.—

''(A) DISALLOWANCE OF DEDUCTION.—Any deduction allowable under this chapter for any costs taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such costs.

''(B) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditures shall be reduced by the amount of the credit so allowed.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by section 602(b), is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following:

''(19) the crude oil and natural gas development credit determined under section 45J(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by section 402(c), is amended by adding at the end the following:

''(15) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the crude oil and natural gas development credit determined under section 48J may be carried back to a taxable year ending before January 1, 2002.''.

(d) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 602(c)(1), is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following:

''(5) SPECIAL RULES FOR CRUDE OIL AND NATURAL GAS DEVELOPMENT CREDIT.—

''(A) IN GENERAL.—In the case of the crude oil and natural gas development credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the crude oil and natural gas development credit).

''(B) CRUDE OIL AND NATURAL GAS DEVELOPMENT CREDIT.—For purposes of this subsection, the term 'crude oil and natural gas development credit' means the credit allowable under subsection (a) by reason of section 45J(a).''.

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii) and subclause (II) of section 38(c)(3)(A)(ii), as amended by section 602(c)(2), and subclause (II) of section 38(c)(4)(A)(ii), as added by section 602(c)(1), are each amended by inserting ''or the crude oil and natural gas development credit'' after ''well production credit''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 602(f), is amended by adding at the end the following:

''Sec. 45J. Crude oil and natural gas development credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2001.

SEC. 607. CREDIT FOR CAPTURE OF COALMINE METHANE GAS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 606(a), is amended by adding at the end the following:

''SEC. 45K. CAPTURE OF COALMINE METHANE GAS.

''(a) IN GENERAL.—For purposes of section 38, the coalmine methane gas capture credit of any taxpayer for any taxable year is $1.21 for 1,000,000 Btu of coalmine methane gas captured by the taxpayer and utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

''(b) COALMINE METHANE GAS.—For purposes of this section, the term 'coalmine methane gas' means any methane gas which is being liberated, or would be liberated, during qualified coal mining operations or as a result of past qualified coal mining operations, or which is extracted up to 10 years in advance of qualified coal mining operations as part of specific plan to mine a coal deposit.

''(c) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine methane gas which is captured in advance of qualified coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine methane gas was removed.

''(d) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsections (b) and (c), coal mining operations which are not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be qualified coal mining operations during such period.

''(e) APPLICATION OF RULES.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by section 606(b), is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following:

''(20) the coalmine methane gas capture credit determined under section 45K(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 606(c), is amended by adding at the end the following:

''Sec. 45K. Capture of coalmine methane gas.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the capture of coalmine methane gas after the date of the enactment of this Act.

SEC. 608. ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.

(a) IN GENERAL.—Section 40(d) (relating to alcohol used as fuel) is amended by adding at the end the following:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization made on a timely filed return (including extensions) for such year, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons pursuant to subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) for the taxable year of the organization, and

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron in which the patronage dividend for the taxable year referred to in subparagraph (A) is includible in gross income.

''(C) SPECIAL RULE FOR DECREASING CREDIT FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the cooperative organization's return for such year, an amount equal to the excess of such reduction over the amount not apportioned to the patrons under subparagraph (A) for the taxable year shall be treated as an increase in tax imposed by this chapter on the organization. Any such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G of this part.''.

(b) TECHNICAL AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following:

''(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(d)(6).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 609. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) INCLUSION OF ALASKA NATURAL GAS.—Section 29(c)(1) (defining qualified fuels) is amended by striking ''and'' at the end of subparagraph (B)(ii), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following:

''(D) Alaska natural gas.''.

(b) DEFINITION.—Section 29(c) is amended by adding at the end the following:

''(4) ALASKA NATURAL GAS.—The term 'Alaska natural gas' means gas produced in compliance with the applicable State and Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(1)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)).''.

(c) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 29(a)(1) (relating to allowance of credit) is amended by inserting ''($1.45 in the case of a qualified fuel described in subsection (c)(1)(D))'' after ''$3''.

(2) CONFORMING AMENDMENTS.—

(A) Section 29(b)(2) is amended by striking ''The $3 amount'' and inserting ''The $3 and $1.45 amounts''.

(B) Section 29(d)(2)(B) is amended by inserting ''(calendar year 2001 in the case of the $1.45 amount in subsection (a)(1))'' after ''1979''.

(d) EXTENSION OF CREDIT.—Section 29(g) (relating to extension for certain facilities) is amended by adding at the end the following:

''(3) SPECIAL RULE FOR ALASKA NATURAL GAS WELLS.—In the case of a well for producing qualified fuel described in subsection (c)(1)(D)—

''(A) for purposes of subsection (f)(1)(A), such well shall be treated as being placed in service before January 1, 1993, if such well is placed in service before January 1, 2009, and

''(B) subsection (f)(2) shall be applied with respect to such well by substituting 'after December 31, 2001, and before January 1, 2009' for 'before January 1, 2003'.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2001.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive and Balanced Energy Policy Act of 2001.''

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into five divisions as follows:

(1) Division A—National Energy Policy Planning and Coordination.

(2) Division B—Reliable and Diverse Power Generation and Transmission.

(3) Division C—Domestic Oil and Gas Production and Transportation.

(4) Division D—Diversifying Energy Demand and Improving Efficiency.

(5) Division E—Enhancing Research, Development, and Training.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

DIVISION A—NATIONAL ENERGY POLICY PLANNING AND COORDINATION

TITLE I—INTEGRATION OF ENERGY POLICY AND CLIMATE CHANGE POLICY

Subtitle A—National Commission on Energy and Climate Change

SEC. 101. NATIONAL COMMISSION ON ENERGY AND CLIMATE CHANGE.

(a) ESTABLISHMENT.—There is established a National Commission on Energy and Climate Change, which shall be an independent establishment within the executive branch.

(b) MEMBERS.—

(1) APPOINTMENT.—The Commission shall consist of 11 members who shall be appointed by the President not later than 30 days after the date of enactment of this title.

(2) COMPOSITION.—The members of the Commission shall be—

(A) eminent in the field of—

(i) energy production, distribution, or conservation,

(ii) energy science or technology,

(iii) environmental sciences,

(iv) global change sciences, or

(v) energy economics; and

(B) selected to reflect a fair balance among the points of view represented.

(3) POLITICAL AFFILIATION.—No more than 6 members of the Commission may be members of the same political party as the President. Not less than half of the members of the minority party shall be appointed from among a list of 12 persons nominated by the Democratic Leader of the United States Senate and the Minority Leader of the United States House of Representatives.

(4) CHAIRPERSON.—The President shall designate a member of the Commission to serve as its chairperson.

(5) TERM.—Members shall be appointed for the life of the Commission and may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

(6) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

SEC. 102. DUTIES OF THE COMMISSION.

(a) ENERGY AND CLIMATE CHANGE STUDY.—

(1) IN GENERAL.—The Commission shall conduct a study of measures that—

(A) could achieve stabilization of greenhouse gas emissions in the United States—

(i) at the 1990 level by not later than 2010; and

(ii) below the 1990 level by not later than 2020;

(B) are consistent with the goals of an overall United States energy and environmental policy; and

(C) will lead to the long-term stabilization of greenhouse gas concentrations.

(2) TYPES OF MEASURES.—The measures to be studied under paragraph (1) shall include—

(A) a variety of cost-effective Federal and State policies, programs, standards, and incentives;

(B) a domestic or international system that integrates innovative, market-based solutions; and

(C) participation in other international institutions, or in the support of international activities, that are established to achieve economically and enviromnentally sound greenhouse gas stabilization solutions.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations concerning—

(1) the measures described in subsection (a)(1) that the Commission determines to be appropriate for implementation, giving preference to cost-effective, voluntary, and technologically feasible measures that will—

(A) produce measurable net reductions in United States emissions that lead toward the stabilization described in subsection (a)(1)(A); and

(B) minimize any adverse impacts on the economy of the United States; and

(2) the text of legislation and administrative actions that would be necessary to effectuate the measures.

(c) STRATEGY.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this title, the Commission shall develop and submit to the Congress a United States greenhouse gas management strategy that contains—

(A) a detailed statement of the findings and conclusions of the Commission;

(B) the recommendations of the Commission for such legislative and administrative actions as the Commissions considers appropriate; and

(C) appropriate funding recommendations to carry out the recommendations under subparagraph (B).

(2) REQUIRED RECOMMENDATIONS.—Recommendations under paragraph (1)(B) shall include specific recommendations concerning—

(A) the development of—

(i) advanced technologies for a full range of energy sources;

(ii) enhanced energy efficiency and conservation measures; and

(iii) alternative energy technologies and energy sources;

(B) economically and environmentally sound emission reduction strategies to stabilize atmospheric concentrations of greenhouse gases;

(C) such changes in institutional and technological systems as are necessary to adapt to climate change in the near tenn and the long term; and

(D) such review, modification, and enhancement of the scientific and economic research efforts of the United States, and improvements to the data resulting from such research, as are appropriate to improve the accuracy of predictions concerning climate change and economic costs and opportunities.

SEC. 103. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of Commission under this title. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 104. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—A member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(c) STAFF.—

(1) APPOINTMENT.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The appointment and termination of the executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon the request of the Chairperson of the Commission, the head of any Federal department or agency may detail employees to the Commission without reimbursement, and without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY OR INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

SEC. 105. TERMINATION.

The Commission shall terminate 90 days after the date on which the Commission submits the report under section 102(b).

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this section, which shall remain available until expended.

SEC. 107. DEFINITION OF COMMISSION.

For purposes of this title, the term ''Commission'' means the National Commission on Energy and Climate Change established by section 101(a).

Subtitle B—International Clean Energy Technology Transfer

SEC. 111. INTERNATIONAL CLEAN ENERGY TECHNOLOGY TRANSFER

(a) DEFINITIONS.—In this section:

(1) CLEAN ENERGY TECHNOLOGY.—The term ''clean energy technology'' means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in developing countries or countries in transition—

(A) emits substantially lower levels of pollutants or greenhouse gases; and

(B) generates substantially smaller or less toxic volumes of solid or liquid waste.

(2) INTERAGENCY WORKING GROUP.—The term ''interagency working group'' means the Interagency Working Group on Clean Energy Technology Transfer established under subsection (b).

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary of Energy, the Secretary of Commerce, and the Administrator of the U.S. Agency for International Development shall jointly establish a Interagency Working Group on Clean Energy Technology Transfer. The interagency working group will focus on the transfer of clean energy technology to the developing countries and countries in transition that are expected to experience, over the next 20 years, the most significant growth in energy production and associated greenhouse gas emissions.

(2) MEMBERSHIP.—The interagency working group shall be jointly chaired by representatives appointed by the agency heads under paragraph (1) and shall also include representatives from the Department of State, the Department of Treasury, the Environmental Protection Agency, the Export-Import Bank, the Overseas Private Investment Corporation, the Trade and Development Agency, and other federal agencies as deemed appropriate by all three agency head under paragraph (1).

(3) DUTIES.—The interagency working group shall—

(A) analyze technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology;

(B) investigate issues associated with building capacity to deploy clean energy technology in developing countries and countries in transition, including—

(i) energy-sector reform;

(ii) creation of open, transparent, and competitive markets for energy technologies;

(iii) availability of trained personnel to deploy and maintain the technology; and

(iv) demonstration and cost-buydown mechanisms to promote first adoption of the technology;

(C) consult with the private sector and other interested groups on the export and deployment of clean energy technology;

(D) monitor each agency's progress towards meeting goals in the 5-year strategic plan submitted to Congress pursuant to the Energy and Water Development Appropriations Act, 2001,

(E) make recommendations to heads of appropriate Federal agencies on ways to streamline federal programs and policies improve each agency's role in the international development, demonstration, and deployment of clean energy technology.

(c) FEDERAL SUPPORT FOR CLEAN ENERGY TECHNOLOGY TRANSFER.—Notwithstanding any other provision of law, each federal agency or government corporation carrying out an assistance program in support of the activities of United States persons in the environment or energy sector of a developing country or country in transition shall support, to the maximum extent practicable, the transfer of United States clean energy technology as part of that program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of a developing country or country in transition.

TITLE II—REGIONAL COORDINATION ON ENERGY INFRASTRUCTURE

SEC. 201. POLICY ON REGIONAL COORDINATION.

(a) STATEMEENT OF POLICY.—It is the policy of the Federal Government to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable energy services to the public while minimizing the impact of providing energy services on communities and the environment.

(b) DEFINITION OF ENERGY SERVICES.—For purposes of this section, the term ''energy services'' means—

(1) the generation or transmission of electric energy,

(2) the transportation, storage, and distribution of crude oil, residual fuel oil, refined petroleum product, or natural gas, or

(3) the reduction in load through increased efficiency, conservation, or load control measures.

SEC. 202. FEDERAL SUPPORT FOR REGIONAL COORDINATION.

(a) TECHNICAL ASSISTANCE.—The Secretary of Energy may provide technical assistance to States and regional organizations formed by two or more States to assist them in coordinating their energy policies on a regional basis. Such technical assistance may include assistance in—

(1) assessing future supply availability and demand requirements,

(2) planning and siting additional energy infrastructure, including generating facilities, electric transmission facilities, pipelines, refineries, and distributed generation facilities to meet regional needs,

(3) identifying and resolving problems in distribution networks,

(4) developing plans to respond to surge demand or emergency needs, and

(5) developing energy efficiency, conservation, and load control programs.

(b) ANNUAL CONFERENCE ON REGIONAL ENERGY COORDINATION.—

(1) ANNUAL CONFERENCE.—The Secretary of Energy shall convene an annual conference to promote regional coordination on energy policy and infrastructure issues.

(2) PARTICIPATION.—The Secretary of Energy shall invite appropriate representatives of federal, state, and regional energy organizations, and other interested parties.

(3) FEDERAL AGENCY COOPERATION.—The Secretary of Energy shall consult and cooperate with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Chairman of the Federal Energy Regulatory Commission, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality in the planning and conduct of the conference.

(4) AGENDA.—The Secretary of Energy, in consultation with the officials identified in paragraph (3) and participants identified in paragraph (2), shall establish an agenda for each conference that promotes regional coordination on energy policy and infrastructure issues.

(5) RECOMMENDATIONS.—Not later than 60 days after the conclusion of each annual conference, the Secretary of Energy shall report to the President and the Congress recommendations arising out of the conference that may improve—

(A) regional coordination on energy policy and infrastructure issues, and

(B) federal support for regional coordination.

TITLE III—REGULATORY REVIEWS AND STUDIES

SEC. 301. REGULATORY REVIEWS FOR NEW TECHNOLOGIES AND PROCESSES

(a) REGULATORY REVIEWS.—Not later than one year after the date of enactment of this section and every five years thereafter, each Federal agency shall review its regulations and standards to identify—

(1) existing regulations or standards that act as barriers to market entry for emerging energy technologies (including fuel cells, combined heat and power, distributed generation, and small-scale renewable energy), and

(2) actions the agency is taking or could take to—

(A) remove barriers to market entry for emerging energy technologies,

(B) increase energy efficiency, or

(C) encourage the use of new processes to meet energy and environmental goals.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this section, and every five years thereafter, the Director of the Office of Science and Technology Policy shall report to the Congress on the results of the agency reviews conducted under subsection (a).

(e) CONTENTS OF THE REPORT.—The report shall—

(1) identify all regulatory barriers to the development and commercialization of emerging energy technologies and processes,

(2) actions taken, or proposed to be taken, to remove such barriers, and

(3) recommendations for changes in laws or regulations that may be needed to—

(A) expedite the siting and development of energy production and distribution facilities,

(B) encourage the adoption of energy efficiency and process improvements, and

(C) reduce the environmental impacts of energy facilities through transparent and flexible compliance methods.

SEC. 302. REVIEW OF FERC POLICIES ON TRANSMISSION AND WHOLESALE POWER MARKETS.

(a) STUDY.—The Federal Energy Regulatory Commission shall reevaluate its regulatory policies on the transmission of electric energy and wholesale power rates.

(b) SCOPE OF STUDY.—The study shall—

(1) reevaluate the methods and models for determining market power, taking into account the experience in the Western power grid,

(2) reevaluate the adequacy and appropriateness of the Commission's definition of ''market power'' as applied to wholesale power markets and the transmission grid,

(3) analyze the impact of wholesale price volatility on power markets and the effect on the national interest in a reliable and affordable electricity system,

(4) reevaluate the Commission's policies on transmission, specifically identifying policy changes that may be needed to ensure adequate construction of transmission capacity and operating procedures to ensure the most efficient use of the transmission grid, and

(5) determine the adequacy of the Commission's voluntary approach to forming regional transmission organizations.

(c) REPORT.—The Commission shall report its findings to the Congress not later than 120 days after the date of the enactment of this section.

SEC. 303. STUDY OF POLICIES TO ADDRESS VOLATILITY IN DOMESTIC OIL AND GAS INVESTMENT.

(a) STUDY.—The Secretary of Energy, in close coordination with the Secretary of the Interior, the Secretary of Commerce, the Secretary of Treasury, and the Interstate Oil and Gas Compact Commission, shall evaluate the impact existing federal and state tax and royalty policies have on the development of domestic oil and gas resources.

(b) SCOPE OF STUDY.—The study under subsection (a) shall analyze—(1) the impact on development and drilling of different price scenarios for oil and natural gas;

(2) the impact of the Alternative Minimum Tax and fixed royalty rates on maintaining development drilling during periods of depressed prices;

(3) the effect of Federal and state tax and royalty policies on investment in different geological and developmental circumstances, including but not limited to deepwater environments, subsalt formations, well-depth environments, coalbed methane and other unconventional gas formations, and Arctic conditions; and

(4) compare those policies with tax and royalty regimes in other countries with similar geological, developmental and infrastructure conditions.

(b) Upon completion of the study under subsection (a), a report describing the findings and recommendations for policy changes shall be provided to the Congress and the Governors of the member states of the Interstate Oil and Gas Compact Commission. The recommendations should ensure that the public interest in receiving the economic benefits of tax and royalty revenues is balanced against the need for revised policies to—

(1) maintain adequate natural gas development drilling during periods of low world oil prices;

(2) ameliorate the boom-bust cycles negatively affecting the oil and gas service industry; and

(3) ensure a consistent level of domestic activity to encourage the education and retention of a technical workforce.

(c) The study under subsection (a) shall be completed not later than 240 days after the date of enactment of this section. The report required in (b) shall be transmitted to Congress not later than 60 days following the completion of the study.

SEC. 304. POWER MARKETING ADMINISTRATION RIGHTS–OF–WAY STUDY.

The Secretary of Energy shall conduct a study of the rights-of-way owned by the Federal power marketing agencies and the Tennessee Valley Authority to determine their location and whether they can be used by pipelines or other transmission services where new capacity is needed. Not later than one year after the date of enactment of this section, the Secretary shall transmit a report to Congress summarizing the results of the study.

SEC. 305. REVIEW OF NATURAL GAS PIPELINE CERTIFICATION PROCEDURES.

(a) FERC REVIEW.—The Federal Energy Regulatory Commission shall, in consultation with other appropriate Federal agencies, conduct a comprehensive review of policies, procedures, and regulations for the certification of natural gas pipelines to determine how to reduce the cost and time of obtaining a certificate. The Commission shall report its findings and any recommendations for legislation to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives not later than 6 months after the date of enactment of this section.

(b) INTERAGENCY REVIEW.—The Chairman of the Council on Environmental Quality, in coordination with the Federal Energy Regulatory Commission, shall establish an interagency task force to develop an interagency memorandum of understanding to expedite the environmental review and permitting of natural gas pipeline projects.

(c) MEMBERSHIP OF INTERAGENCY TASK FORCE.—The task force shall consist of—

(1) the Chairman of the Council on Environmental Quality, who shall serve as the Chairman of the interagency task force,

(2) the Chairman of the Federal Energy Regulatory Commission,

(3) the Director of the Bureau of Land Management,

(4) the Director of the U.S. Fish and Wildlife Service,

(5) the Commanding General, U.S. Army Corps of Engineers,

(6) the Chief of the Forest Service,

(7) the Administrator of the Environmental Protection Agency,

(8) the Chairman of the Advisory Council on Historic Preservation, and

(9) and the heads of such other agencies as the Chairman of the Council on Environmental Quality and the Chairman of the Federal Energy Regulatory Commission deem appropriate.

(d) MEMORANDUM OF UNDERSTANDING.—The agencies represented by the members of the interagency task force shall enter into the memorandum of understanding not later than one year after the date of the enactment of this section.

SEC. 306. STREAMLINING FUEL SPECIFICATIONS.

(a) REPORT.—Not later than nine months after the date of enactment of this title, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly report to the Congress on the technical and economic feasibility of developing national or regional vehicle fuel specifications for the contiguous United States that would—

(1) enhance flexibility in the distribution of fuels,

(2) reduce price volatility and costs to consumers and producers, and

(3) meet local, regional, and national air quality requirements and goals.

(b) RECOMMENDATIONS.—The report shall include recommendations for appropriate changes to existing laws and regulations.

(c) CONSULTATION.—The Administrator and the Secretary shall consult with the Governors of the several States, automobile manufacturers, vehicle fuel producers and distributors, and the public in the preparation of the report.

SEC. 307. STUDY OF FINANCING FOR NEW TECHNOLOGIES.

(a) INDEPENDENT ASSESSMENT.—The Secretary of Energy shall commission an independent assessment of innovative financing techniques to facilitate construction of new electricity supply technologies that might not otherwise be built in a competitive electricity market.

(b) CONDUCT OF THE ASSESSMENT.—The Secretary shall retain an independent contractor with proven expertise in financing large capital projects or in financial services consulting to conduct the assessment.

(c) CONTENT OF THE ASSESSMENT.—The assessment shall include a comprehensive examination of all available techniques to safeguard private investors against risks (including both market-based and govemment-imposed risks) that are beyond the control of the investors. Such techniques may include Federal loan guarantees, Federal price guarantees, special tax considerations, and direct Federal investment.

(d) REPORT.—The Secretary shall submit the results of the independent assessment to the Congress not later than 9 months after the date of enactment of this section.

SEC. 308. STUDY ON THE USE OF THE STRATEGIC PETROLEUM RESERVE.

(a) REPORT.—The Secretary of Energy shall report to the President and to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives, not later than 6 months after the date of enactment of this title, on whether section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) should be amended to give the Secretary greater flexibility to drawdown and distribute the Reserve to mitigate price volatility or regional supply shortages.

(b) CONTENTS OF THE REPORT.—The Secretary shall include in the report—

(1) an assessment of how extreme market conditions in the past (including, in particular, the conditions between July 1990 and February 1991) may have been mitigated by more timely use of the Reserve, and

(2) specific recommendations for any changes in the existing law the Secretary determines to be necessary or desirable and a statement of the reasons for any such changes.

DIVISION B—DIVERSE AND RELIABLE POWER GENERATION AND TRANSMISSION

TITLE IV—ELECTRIC ENERGY TRANSMISSION RELIABILITY

SEC. 401. ELECTRIC RELIABILITY ORGANIZATION AND OVERSIGHT.

(a) IN GENERAL.—Part H of the Federal Power Act (16 U.S.C. 824–824m) is amended by adding at the end the following:

"SEC. 216. ELECTRIC RELIABILITY ORGANIZATION AND OVERSIGHT.

''(a) DEFINITIONS—As used in this section:

''(1) AFFILIATED REGIONAL RELIABILITY ENTITY.—The term 'affiliated regional reliability entity means an entity delegated authority under the provisions of subsection (h).

''(2) BULK POWER SYSTEM.—The term 'bulk power system' means all facilities and control systems necessary for operating an interconnected transmission grid (or any portion thereof, including high-voltage transmission lines; substations; control centers; communications; data, and operations planning facilities; and the output of generating units necessary to maintain transmission system reliability.

''(3) ELECTRIC RELIABILITY ORGANIZATION, OR ORGANIZATION.—The term 'Electric Reliability Organization' or 'Organization' means the organization approved by the Commission under subsection (d)(4).

''(4) ENTITY RULE.—The term 'entity rule' means a rule adopted by an affiliated regional reliability entity for a specific region and designed to implement or enforce one or more Organization Standards. An entity rule shall be approved by the organization and once approved, shall be treated as an Organization Standard.

''(5) INDUSTRY SECTOR.—The term 'industry sector' means a group of users of the bulk power system with substantially similar commercial interests, as determined by the Board of the Electric Reliability Organization.

''(6) INTERCONNECTION.—The term 'interconnection' means a geographic area in which the operation of bulk power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the interconnection to maintain safe and reliable operation of the facilities within their control.

''(7) ORGANIZATION STANDARD.—The term 'Organization Standard' means a policy or standard duly adopted by the Electric Reliability Organization to provide for the reliable operation of a bulk power system.

''(8) PUBLIC INTEREST GROUP.—The term 'public interest group' means any nonprofit private or public organization that has an interest in the activities of the Electric Reliability Organization, including, but not limited to, ratepayer advocates, environmental groups, and State and local government organizations that regulate market participants and promulgate government policy.

''(9) VARIANCE.—The term 'variance' means an exception or variance from the requirements of an Organization Standard (including a proposal for an Organization Standard where there is no Organization Standard) that is adopted by an affiliated regional reliability entity and applicable to all or a part of the region for which the affiliated regional reliability entity is responsible. A variance shall be approved by the organization and once approved, shall be treated as an Organization Standard.

''(10) SYSTEM OPERATOR.—The term 'system operator' means any entity that operates or is responsible for the operation of a bulk power system, including but not limited to a control area operator, an independent system operator, a regional transmission organization, a transmission company, a transmission system operator, or a regional security coordinator.

''(11) USER OF THE BULK POWER SYSTEM.—The term 'user of the bulk power system' means any entity that sells, purchases, or transmits electric power over a bulk power system, or that owns, operates, or maintains facilities or control systems that are part of a bulk power system, or that is a system operator.

''(b) COMMISSION AUTHORITY.—

''(1) Within the United States, the Commission shall have jurisdiction over the Electric Reliability Organization, all affiliated regional reliability entities, all system operators, and all users of the bulk-power system, for purposes of approving and enforcing compliance with the requirements of this section.

''(2) The Commission may, by rule, define any other term used in this section, provided such definition is consistent with the definitions in, and the purpose and intent of, this Act.

''(3) Not later than 90 days after the date of enactment of this section, the Commission shall issue a proposed rule for implementing the requirements of this section. The Commission shall provide notice and opportunity for comment on the proposed rule. The Commission shall issue a final rule under this subsection within 180 days after the date of enactment of this section.

''(4) Nothing in this section shall be construed as limiting or impairing any authority of the Commission under any other provision of this Act, including its exclusive authority to determine rates, terms, and conditions of transmission services subject to its jurisdiction.

''(c) EXISTING RELIABILITY STANDARDS.—Following enactment of this section, and prior to the approval of an organization under subsection (d), any entity, including the North American Electric Reliability Council and its member regional reliability councils, may file any reliability standard, guidance, or practice that such entity would propose to be made mandatory and enforceable. The Commission, after allowing an opportunity to submit comments, may approve any such proposed mandatory standard, guidance, or practice, or any amendment thereto, if it finds that the standard, guidance, or practice, or amendment is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission may, without further proceeding or finding, grant its approval to any standard, guidance, or practice for which no substantive objections are filed in the comment period. Filed standards, guidances, or practices, including any amendments thereto, shall be mandatory and applicable according to their terms following approval by the Commission and shall remain in effect until—

''(1) withdrawn, disapproved, or superseded by an Organization Standard, issued or approved by the Electric Reliability Organization and made effective by the Commission under subsection (e); or

''(2) disapproved by the Commission if, upon complaint or upon its own motion and after notice and an opportunity for comment, the Commission finds the standard, guidance, or practice unjust, unreasonable, unduly discriminatory, or preferential or not in the public interest. Standards, guidances, or practices in effect pursuant to the provisions of this subsection shall be enforceable by the Commission.

''(d) ORGANIZATION APPROVAL.—

''(1) Following the issuance of a final Commission rule under subsection (b)(3), an entity may submit an application to the Commission for approval as the Electric Reliability Organization. The applicant shall specify in its application its governance and procedures, as well as its funding mechanism and initial funding requirements.

''(2) The Commission shall provide public notice of the application and afford interested parties an opportunity to comment.

''(3) The Commission shall approve the application if the Commission determines that the applicant—

''(A) has the ability to develop, implement, and enforce standards that provide for an adequate level of reliability of the bulk power system;

''(B) permits voluntary membership to any user of the bulk power system or public interest group;

''(C) assures fair representation of its members in the selection of its directors and fair management of its affairs, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of Organization Standards and the exercise of oversight of bulk power system reliability;

''(D) assures that no two industry sectors have the ability to control, and no one industry sector has the ability to veto, the Electric Reliability Organization's discharge of its responsibilities (including actions by committees recommending standards to the board or other board actions to implement and enforce standards);

''(E) provides for governance by a board wholly comprised of independent directors;

''(F) provides a funding mechanism and requirements that are just, reasonable, and not unduly discriminatory or preferential and are in the public interest, and which satisfy the requirements of subsection (*l*);

''(G) establishes procedures for development of Organization Standards that provide reasonable notice and opportunity for public comment, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of Organization Standards, and which standards development process has the following attributes—

''(i) openness;

''(ii) balance of interests; and

''(iii) due process, except that the procedures may include alternative procedures for emergencies;

''(H) establishes fair and impartial procedures for implementation and enforcement of Organization Standards, either directly or through delegation to an affiliated regional reliability entity, including the imposition of penalties, limitations on activities, functions, or operations, or other appropriate sanctions;

''(I) establishes procedures for notice and opportunity for public observation of all meetings, except that the procedures for public observation may include alternative procedures for emergencies or for the discussion of information the directors determine should take place in closed session, such as litigation, personnel actions, or commercially sensitive information;

''(J) provides for the consideration of recommendations of States and State commissions; and

''(K) addresses other matters that the Commission may deem necessary or appropriate to ensure that the procedures, governance, and funding of the Electric Reliability Organization are just, reasonable, not unduly discriminatory or preferential, and are in the public interest.

''(4) The Commission shall approve only one Electric Reliability Organization. If the Commission receives two or more timely applications that satisfy the requirements of this subsection, the Commission shall approve only the application it concludes will best implement the provisions of this section.

''(e) ESTABLISHMENT OF AND MODIFICATIONS TO ORGANIZATION STANDARDS.—

''(1) The Electric Reliability Organization shall file with the Commission any new or modified organization standards, including any variances or entity rules, and the Commission shall follow the procedures under paragraph (2) for review of that filing.

''(2) Submissions under paragraph (1) shall include—

''(A) a concise statement of the purpose of the proposal, and

''(B) a record of any proceedings conducted with respect to such proposal.

The Commission shall provide notice of the filing of such proposal and afford interested entities 30 days to submit comments. The Commission, after taking into consideration any submitted comments, shall approve or disapprove such proposal not later than 60 days after the deadline for the submission of comments, except that the Commission may extend the 60-day period for an additional 90 days for good cause, and except further that if the Commission does not act to approve or disapprove a proposal within the foregoing periods, the proposal shall go into effect subject to its terms, without prejudice to the authority of the Commission thereafter to modify the proposal in accordance with the standards and requirements of this section. Proposals approved by the Commission shall take effect according to their terms but not earlier than 30 days after the effective date of the Commission's order, except as provided in paragraph (3) of this subsection.

''(3)(A) In the exercise of its review responsibilities under this subsection, the Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a new or modified organization standard, but shall not defer to the organization with respect to the effect of the standard on competition. The Commission shall approve a proposed new or modified organization standard if it determines the proposal to be just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(B) An existing or proposed organization standard which is disapproved in whole or in part by the Commission shall be remanded to the Electric Reliability Organization for further consideration.

''(C) The Commission, on its own motion or upon complaint, may direct the Electric Reliability Organization to develop an organization standard, including modification to an existing organization standard, addressing a specific matter by a date certain if the Commission considers such new or modified organization standard necessary or appropriate to further the purposes of this section. The Electric Reliability Organization shall file any such new or modified organization standard in accordance with this subsection.

''(D) An affiliated regional reliability entity may propose a variance or entity rule to the Electric Reliability Organization. The affiliated regional reliability entity may request that the Electric Reliability Organization expedite consideration of the proposal, and may file a notice of such request with the Commission, if expedited consideration is necessary to provide for bulk-power system reliability. If the Electric Reliability Organization fails to adopt the variance or entity rule, either in whole or in part, the affiliated regional reliability entity may request that the Commission review such action. If the Commission determines, after its review of such a request, that the action of the Electric Reliability Organization did not conform to the applicable standards and procedures approved by the Commission, or if the Commission determines that the variance or entity rule is just, reasonable, not unduly discriminatory or preferential, and in the public interest, and that the Electric Reliability Organization has unreasonably rejected the proposed variance or entity rule, then the Commission may remand the proposed variance or entity rule for further consideration by the Electric Reliability Organization or may direct the Electric Reliability Organization or the affiliated regional reliability entity to develop a variance or entity rule consistent with that requested by the affiliated regional reliability entity. Any such variance or entity rule proposed by an affiliated regional reliability entity shall be submitted to the Electric Reliability Organization for review and filing with the Commission in accordance with the procedures specified in this subsection.

''(E) Notwithstanding any other provision of this subsection, a proposed organization standard or amendment shall take effect according to its terms if the Electric Reliability Organization detemiines that an emergency exists requiring that such proposed organization standard or amendment take effect without notice or comment. The Electric Reliability Organization shall notify the Commission immediately following such determination and shall file such emergency organization standard or amendment with the Commission not later than 5 days following such determination and shall include in such filing an explanation of the need for such emergency standard. Subsequently, the Commission shall provide notice of the organization standard or amendment for comment, and shall follow the procedures set out in paragraphs (2) and (3) for review of the new or modified organization standard. Any such organization standard that has gone into effect shall remain in effect unless and until suspended or disapproved by the Commission. If the Commission determines at anytime that the emergency organization standard or amendment is not necessary, the Commission may suspend such emergency organization standard or amendment.

''(4) All users of the bulk power system shall comply with any organization standard that takes effect under this section.

''(f) COORDINATION WITH CANADA AND MEXICO.—The Electric Reliability Organization shall take all appropriate steps to gain recognition in Canada and Mexico. The United States shall use its best efforts to enter into international agreements with the appropriate governments of Canada and Mexico to provide for effective compliance with organization standards and to provide for the effectiveness of the Electric Reliability Organization in carrying out its mission and responsibilities. All actions taken by the Electric Reliability Organization, any affiliated regional entity, and the Commission shall be consistent with the provisions of such international agreements.

''(g) CHANGES IN PROCEDURES, GOVERNANCE, OR FUNDING.—

''(1) The Electric Reliability Organization shall file with the Commission any proposed change in its procedures, governance, or funding, or any changes in the affiliated regional reliability entity's procedures, governance, or funding relating to delegated functions, and shall include with the filing an explanation of the basis and purpose for the change.

''(2) A proposed procedural change may take effect 90 days after filing with the Commission if the change constitutes a statement of policy, practice, or interpretation with respect to the meaning or enforcement of an existing procedure. Otherwise, a proposed procedural change shall take effect only upon a finding by the Commission, after notice and opportunity for comments, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (d)(4).

''(3) A change in governance or funding shall not take cffect unless the Commission finds that the change is just, reasonable, not unduly discriminatory or preferential, in the public interest, and satisfies the requirements of subsection (d)(4).

''(4) The Commission, upon complaint or upon its own motion, may require the Electric Reliability Organization to amend the procedures, governance, or funding if the Commission determines that the amendment is necessary to meet the requirements of this section. The Electric Reliability Organization shall file the amendment in accordance with paragraph (1) of this subsection.

''(h) DELEGATIONS OF AUTHORITY.—

''(1) The Electric Reliability Organization shall, upon request by an entity, enter into an agreement with such entity for the delegation of authority to implement and enforce compliance with organization standards in a specified geographic area if the organization finds that the entity requesting the delegation satisfies the requirements of subparagraphs (A), (B), (C), (D), (F), (J), and (K) of subsection (d)(4), and if the delegation promotes the effective and efficient implementation and administration of bulk power system reliability. The Electric Reliability Organization may enter into an agreement to delegate to the entity any other authority, except that the Electric Reliability Organization shall reserve the right to set and approve standards for bulk power system reliability.

''(2) The Electric Reliability Organization shall file with the Commission any agreement entered into under this subsection and any information the Commission requires with respect to the affiliated regional reliability entity to which authority is to be delegated. The Commission shall approve the agreement, following public notice and an opportunity for comment, if it finds that the agreement meets the requirements of paragraph (1), and is just, reasonable, not unduly discriminatory or preferential, and is in the public interest. A proposed delegation agreement with an affiliated regional reliability entity organized on an interconnection-wide basis shall be rebuttably presumed by the Commission to promote the effective and efficient implementation and administration of bulk power system reliability. No delegation by the Electric Reliability Organization shall be valid unless approved by the Commission.

''(3)(A) A delegation agreement entered into under this subsection shall specify the procedures for an affiliated regional reliability entity to propose entity rules or variances for review by the Electric Reliability Organization. With respect to any such proposal that would apply on an interconnection-wide basis, the Electric Reliability Organization shall presume such proposal valid if made by an interconnection-wide affiliated regional reliability entity unless the Electric Reliability Organization makes a written finding that the proposal—

''(i) was not developed in a fair and open process that provided an opportunity for all interested parties to participate;

''(ii) has a significant adverse impact on reliability or commerce in other interconnections;

''(iii) fails to provide a level of reliability of the bulk-power system within the interconnection such that it would constitute a serious and substantial threat to public health, safety, welfare, or national security; or

''(iv) creates a serious and substantial burden on competitive markets within the interconnection that is not necessary for reliability.

''(B) With respect to any such proposal that would apply only to part of an interconnection, the Electric Reliability Organization shall find such proposal valid if the affiliated regional reliability entity or entities making the proposal demonstrate that it—

''(i) was developed in a fair and open process that provided an opportunity for all interested parties to participate;

''(ii) would not have an adverse impact on commerce that is not necessary for reliability;

''(iii) provides a level of bulk power system reliability adequate to protect public health, safety, welfare, and national security, and would not have a significant adverse impact on reliability; and

''(iv) in the case of a variance, is based on legitimate differences between regions or between subregions within the affiliated regional reliability entity's geographic area.

The Electric Reliability Organization shall approve or disapprove such proposal within 120 days, or the proposal shall be deemed approved. Following approval of any such proposal under this paragraph, the Electric Reliability Organization shall seek Commission approval pursuant to the procedures prescribed under subsection (e)(3). Affiliated regional reliability entities may not make requests for approval directly to the Commission except pursuant to subsection (e)(3)(D).

''(4) If an affiliated regional reliability entity requests, consistent with paragraph (1) of this subsection, that the Electric Reliability Organization delegate authority to it, but is unable within 180 days to reach agreement with the Electric Reliability Organization with respect to such requested delegation, such entity may seek relief from the Commission. If, following notice and opportunity for comment, the Commission determines that a delegation to the entity would meet the requirements of paragraph (1) above, and that the delegation would be just, reasonable, not unduly discriminatory or preferential, and in the public interest, and that the Electric Reliability Organization has unreasonably withheld such delegation, the Commission may, by order, direct the Electric Reliability Organization to make such delegation.

''(5)(A) The Commission may, upon its own motion or upon complaint, and with notice to the appropriate affiliated regional reliability entity or entities, direct the Electric Reliability Organization to propose a modification to an agreement entered into under this subsection if the Commission determines that—

''(i) the affiliated regional reliability entity no longer has the capacity to carry out effectively or efficiently its implementation or enforcement responsibilities under that agreement, has failed to meet its obligations under that agreement, or has violated any provision of this section;

''(ii) the rules, practices, or procedures of the affiliated regional reliability entity no longer provide for fair and impartial discharge of its implementation or enforcement responsibilities under the agreement;

''(iii) the geographic boundary of a transmission entity approved by the Commission is not wholly within the boundary of an affiliated regional reliability entity and such difference is inconsistent with the effective and efficient implementation and administration of bulk power system reliability; or

''(iv) the agreement is inconsistent with another delegation agreement as a result of actions taken under paragraph (4) of this subsection.

''(B) Following an order of the Commission issued under subparagraph (A), the Commission may suspend the affected agreement if the Electric Reliability Organization or the affiliated regional reliability entity does not propose an appropriate and timely modification. If the agreement is suspended, the Electric Reliability Organization shall assume the previously delegated responsibilities. The Commission shall allow the Electric Reliability Organization and the affiliated regional reliability entity an opportunity to appeal the suspension.

''(i) ORGANIZATION MEMBERSHIP.—Every system operator shall be required to be a member of the Electric Reliability Organization and shall be required also to be a member of any affiliated regional reliability entity operating under an agreement effective pursuant to subsection (h) applicable to the region in which the system operates or is responsible for the operation of bulk power system facilities.

''(j) INJUNCTIONS AND DISCIPLINARY ACTIONS.—

''(1) Consistent with the range of actions approved by the Commission under subsection (d)(4)(H), the Electric Reliability Organization may impose a penalty, limitation of activities, functions, operations, or other disciplinary action the Electric Reliability Organization finds appropriate against a user of the bulk power system if the Electric Reliability Organization, after notice and an opportunity for interested parties to be heard, issues a finding in writing that the user of the bulk-power system has violated an organization standard. The Electric Reliability Organization shall immediately notify the Commission of any disciplinary action imposed with respect to an act or failure to act of a user of the bulk-power system that affected or threatened to affect bulk power system facilities located in the United States, and the sanctioned party shall have the right to seek modification or rescission of such disciplinary action by the Commission. If the organization finds it necessary to prevent a serious threat to reliability, the organization may seek injunctive relief in a Federal court in the district in which the affected facilities are located.

''(2) A disciplinary action taken under paragraph (1) may take effect not earlier than the 30th day after the Electric Reliability Organization files with the Commission its written finding and record of proceedings before the Electric Reliability Organization and the Commission posts its written finding, unless the Commission, on its own motion or upon application by the user of the bulk power system which is the subject of the action, suspends the action. The action shall remain in effect or remain suspended unless and until the Commission, after notice and opportunity for hearing, affirms, sets aside, modifies, or reinstates the action, but the Commission shall conduct such hearing under procedures established to ensure expedited consideration of the action taken.

''(3) The Commission, on its own motion or on complaint, may order compliance with an organization standard and may impose a penalty, limitation of activities, functions, or operations, or take such other disciplinary action as the Commission finds appropriate, against a user of the bulk power system with respect to actions affecting or threatening to affect bulk power system facilities located in the United States if the Commission finds, after notice and opportunity for a hearing, that the user of the bulk power system has violated or threatens to violate an organization standard.

''(4) The Commission may take such action as is necessary against the Electric Reliability Organization or an affiliated regional reliability entity to assure compliance with an organization standard, or any Commission order affecting the Electric Reliability

Organization or an affiliated regional reliability entity.

''(k) RELIABILITY REPORTS.—The Electric Reliability Organization shall conduct periodic assessments of the reliability and adequacy of the interconnected bulk power system in North America and shall report annually to the Secretary of Energy and the Commission its findings and recommendations for monitoring or improving system reliability and adequacy.

''(*l*) ASSESSMENT AND RECOVERY OF CERTAIN COSTS.—The reasonable costs of the Electric Reliability Organization, and the reasonable costs of each affiliated regional reliability entity that are related to implementation and enforcement of organization standards or other requirements contained in a delegation agreement approved under subsection (h), shall be assessed by the Electric Reliability Organization and each affiliated regional reliability entity, respectively, taking into account the relationship of costs to each region and based on an allocation that reflects an equitable sharing of the costs among all end users. The Commission shall provide by rule for the review of such costs and allocations, pursuant to the standards in this subsection and subsection (d)(4)(F).

''(m) SAVINGS PROVISIONS.—

''(1) The Electric Reliability Organization shall have authority to develop, implement and enforce compliance with standards for the reliable operation of only the bulk power system.

''(2) This section does not provide the Electric Reliability Organization or the Commission with the authority to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any Organization Standard.

''(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, the Commission shall issue a final order determining whether a State action is inconsistent with an Organization Standard, after notice and opportunity for comment, taking into consideration any recommendations of the Electric Reliability Organization.

''(5) The Commission, after consultation with the Electric Reliability Organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(n) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States, upon execution of an international agreement or agreements described in subsection (f). A regional advisory body may provide advice to the electric reliability organization, an affiliated regional reliability entity, or the Commission regarding the governance of an existing or proposed affiliated regional reliability entity within the same region, whether an organization standard, entity rule, or variance proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, and whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, in the public interest, and consistent with the requirements of subsection (1). The Commission may give deference to the advice of any such regional advisory body if that body is organized on an interconnection-wide basis.

''(o) COORDINATION WITH REGIONAL TRANSMISSION ORGANIZATIONS.—

''(1) Each regional transmission organization authorized by the Commission shall be responsible for maintaining the short-term reliability of the bulk power system that it operates, consistent with organization standards.

''(2) Except as provided in paragraph (5), in connection with a proceeding under subsection (e) to consider a proposed organization standard, each regional transmission organization authorized by the Commission shall report to the Commission, and notify the electric reliability organization and any applicable affiliated regional reliability entity, regarding whether the proposed organization standard hinders or conflicts with that regional transmission organization's ability to fulfill the requirements of any rule, regulation, order, tariff, rate schedule, or agreement accepted, approved or ordered by the Commission. Where such hindrance or conflict is identified, the Commission shall address such hindrance or conflict, and the need for any changes to such rule, order, tariff, rate schedule, or agreement accepted, approved or ordered by the Commission in its order under subsection (e) regarding the proposed standard. Where such hindrance or conflict is identified between a proposed organization standard and a provision of any rule, order, tariff, rate schedule or agreement accepted, approved or ordered by the Commission applicable to a regional transmission organization, nothing in this section shall require a change in the regional transmission organization's obligation to comply with such provision unless the Commission orders such a change and the change becomes effective. If the Commission finds that the tariff, rate schedule, or agreement needs to be changed, the regional transmission organization must expeditiously make a section 205 filing to reflect the change. If the Commission finds that the proposed organization standard needs to be changed, it shall remand the proposed organization standard to the electric reliability organization under subsection (e)(3)(B).

''(3) Except as provided in paragraph (5), to the extent hindrances and conflicts arise after approval of a reliability standard under subsection (c) or organization standard under subsection (e), each regional transmission organization authorized by the Commission shall report to the Commission, and notify the electric reliability organization and any applicable affiliated regional reliability entity, regarding any reliability standard approved under subsection (c) or organization standard that hinders or conflicts with that regional transmission organization's ability to fulfill the requirements of any rule, regulation, order, tariff, rate schedule, or agreement accepted, approved or ordered by the Commission. The Commission shall seek to assure that such hindrances or conflicts are resolved promptly. Where a hindrance or conflict is identified between a reliability standard or an organization standard and a provision of any rule, order, tariff, rate schedule or agreement accepted, approved or ordered by the Commission applicable to a regional reliability organization, nothing in this section shall require a change in the regional transmission organization's obligation to comply with such provision unless the Commission orders such a change and the change becomes effective. If the Commission finds that the tariff, rate schedule or agreement needs to be changed, the regional transmission organization must expeditiously make a section 205 filing to reflect the change. If the Commission finds that an organization standard needs to be changed, it shall order the electric reliability organization to develop and submit a modified organization standard under subsection (e)(3)(C).

''(4) An affiliated regional reliability entity and a regional transmission organization operating in the same geographic area shall cooperate to avoid conflicts between implementation and enforcement of organization standards by the affiliated regional reliability entity and implementation and enforcement by the regional transmission organization of tariffs, rate schedules, and agreements accepted, approved or ordered by the Commission. In areas without an affiliated regional reliability entity, the electric reliability organization shall act as the affiliated regional reliability entity for purposes of this paragraph.

''(5) Until 6 months after approval of applicable subsection (h)(3) procedures, any reliability standard, guidance, or practice contained in Commission-accepted tariffs, rate schedules, or agreements in effect of any Commission-authorized independent system operator or regional transmission organization shall continue to apply unless the Commission accepts an amendment thereto by the applicable operator or organization, or upon complaint finds them to be unjust, unreasonable, unduly discriminatory or preferential, or not in the public interest. At the conclusion of such transition period, any such reliability standard, guidance, practice, or amendment thereto that the Commission determines is inconsistent with organization standards shall no longer apply.''.

(b) ENFORCEMENT.—Sections 316 and 316A of the Federal Power Act are each amended by striking ''or 214'' each place it appears and inserting ''214, or 216''.

SEC. 402. APPLICATION OF ANTITRUST LAWS.

Notwithstanding any other provision of law, each of the following activities are rebuttably presumed to be in compliance with the antitrust laws of the United States:

(1) Activities undertaken by the Electric Reliability Organization under section 216 of the Federal Power Act or affiliated regional reliability entity operating under an agreement in effect under section 216(h) of such Act.

(2) Activities of a member of the Electric Reliability Organization or affiliated regional reliability entity in pursuit of organization objectives under section 216 of the Federal Power Act undertaken in good faith under the rules of the organization.

Primary jurisdiction, and immunities and other affirmative defenses, shall be available to the extent otherwise applicable.

TITLE V—IMPROVED ELECTRICITY CAPACITY AND ACCESS

SEC. 501. UNIVERSAL AND AFFORDABLE SERVICE.

It is the sense of the Congress that—

(1) every retail electric consumer should have access to electric energy at reasonable and affordable rates; and

(2) the States should ensure that retail electric competition does not result in the loss of service to rural, residential, or low-income consumers.

SEC. 502. PUBLIC BENEFITS FUND.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''eligible public purpose program'' means a State or tribal program that—

(A) assists low-income households in meeting their home energy needs;

(B) provides for the planning, construction, or improvement of facilities to generate, transmit, or distribute electricity to Indian tribes or rural and remote communities;

(C) provides for the development and implementation of measures to reduce the demand for electricity;

(D) provides for the development and implementation of a qualifying greenhouse gas mitigation project; or

(E) provides for—

(i) new or additional capacity, or improves the efficiency of existing capacity, from a wind, biomass, geothermal, solar thermal, photovoltaic, combined heat and power energy source, or

(ii) additional generating capacity achieved from increased efficiency at existing hydroelectric dams or additions of new capacity at existing hydroelectric dams;

(2) the term ''fiscal agent'' means the entity designated under subsection (c);

(3) the term ''Fund'' means the Public Benefits Fund established under subsection (b);

(4) the term ''qualifying greenhouse gas mitigation project'' means a project to reduce the emissions of greenhouse gases that is at least fifty percent cofunded by a power generator;

(5) the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(6) the term ''Secretary'' means the Secretary of Energy; and

(7) the term ''State'' means each of the States and the District of Columbia.

(b) PUBLIC BENEFITS FUND.—There is established in the Treasury of the United States a separate fund, to be known as the Public Benefits Fund. The Fund shall consist of amounts collected by the fiscal agent under subsection (e). The fiscal agent may disburse amounts in the Fund, without further appropriation, in accordance with this section.

(c) DUTIES OF THE FISCAL AGENT.—The Secretary shall appoint a fiscal agent shall collect and disburse the amounts in the Fund in accordance with this section.

(d) DUTIES OF THE SECRETARY.—The Secretary shall prescribe—

(1) rules for the equitable allocation of the Fund among States and Indian tribes based upon—

(A) the number of low-income households in such State or tribal jurisdiction; and

(B) the average annual cost of electricity used by households in such State or tribal jurisdiction;

(2) the criteria by which the fiscal agent determines whether a State or tribal government's program is an eligible public purpose program; and

(3) rules governing the award of funds for qualifying greenhouse gas mitigation projects that the Secretary determines are necessary to ensure such projects are cost-effective.

(e) PUBLIC BENEFITS CHARGE.—

(1) AMOUNT OF CHARGE.—As a condition of existing or future interconnection with facilities of any transmitting utility, each owner of an electric generating facility whose nameplate capacity exceeds five megawatts shall pay the transmitting utility a public benefits charge equal to one mill per kilowatt-hour on electric energy generated by such electric generating facility.

(2) AFFILIATES.—Each owner of an electric generating facility subject to the charge under paragraph (1) shall pay the charge even if the generation facility and the transmitting facility are under common ownership or are otherwise affiliated.

(3) IMPORTED ELECTRICITY.—Each importer of electric energy from Canada or Mexico, as a condition of existing or future interconnection with facilities of any transmitting utility in the United States, shall pay this same charge for imported electric energy.

(4) PAYMENT OF THE CHARGE.—The transmitting utility shall pay the amounts collected to the fiscal agent at the close of each month, and the fiscal agent shall deposit the amounts into the Fund as offsetting collections.

(f) DISBURSAL FROM THE FUND.—

(1) BLOCK GRANTS.—The fiscal agent shall disburse amounts in the Fund to participating States and tribal governments as a block grant to carry out eligible public purpose programs in accordance with this subsection and rules prescribed under subsection (d).

(2) ANNUAL PAYMENTS.—The fiscal agent shall disburse amounts for a calendar year from the Fund to a State or tribal government in twelve equal monthly payments beginning two months after the beginning of the calendar year.

(3) ELIGIBLE RECIPIENTS.—The fiscal agent shall make distributions to the State or tribal government or to an entity designated by the State or tribal government to receive payments.

(4) LIMITATION ON USE OF FUNDS.—A State or tribal government may use amounts received only for the eligible public purpose programs the State or tribal government designated in its submission to the fiscal agent and the fiscal agent determined eligible.

(g) REPORT.—One year before the date of expiration of this section, the Secretary shall report to Congress whether a public benefits fund should continue to exist.

(h) SUNSET.—This section expires at midnight on December 31, 2015.

SEC. 503. RURAL CONSTRUCTION GRANTS.

Section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940c) is amended by adding after subsection (b) the following:

''(c) RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS.—The Secretary of Agriculture, in consultation with the Secretary of Energy and the Secretary of the Interior, may provide grants to eligible borrowers under this Act for the purpose of increasing energy efficiency, siting or upgrading transmission and distribution lines, or providing or modernizing electric facilities for—

''(1) a unit of local government of a State or territory; or

''(2) an Indian tribe.

''(d) GRANT CRITERIA.—The Secretary shall make grants based on a determination of cost-effectiveness and most effective use of the funds to achieve the stated purposes of this section.

''(e) PREFERENCE.—In making grants under this section, the Secretary shall give a preference to renewable energy facilities.

''(f) DEFINITION.—For purposes of this section, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(g) AUTHORIZATION.—There is authorized to be appropriated for purposes of subsection (c) $20,000,000 for each of the seven fiscal years following the date of enactment of this section.''.

SEC. 504. COMPREHENSIVE INDIAN ENERGY PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501–3506) is amended by adding after section 2606 the following:

''SEC. 2607. COMPREHENSIVE INDIAN ENERGY PROGRAM.

''(a) DEFINITIONS.—For purposes of this section—

''(1) 'Director' means the Director of the Office of Indian Energy Policy and Programs established by section 217 of the Department of Energy Organization Act, and

''(2) 'Indian land' means—

''(A) any land within the limits of an Indian reservation, pueblo, or ranchera;

''(B) any land not within the limits of an Indian reservation, pueblo, or ranchera whose title on the date of enactment of this section was held—

''(i) in trust by the United States for the benefit of an Indian tribe,

''(ii) by an Indian tribe subject to restriction by the United States against alienation, or

''(iii) by a dependent Indian community; and

''(C) land conveyed to an Alaska Native Corporation under the Alaska Native Claims Settlement Act.

''(b) INDIAN ENERGY EDUCATION, PLANNING AND MANAGEMENT ASSISTANCE.—(1) The Director shall establish progains within the Office of Indian Energy Policy and Programs to assist Indian tribes to meet their energy education, research and development, planning, and management needs.

''(2) The Director may make grants, on a competitive basis, to an Indian tribe for—

''(A) renewable, energy efficiency, and conservation programs;

''(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities; and

''(C) planning, constructing, developing, operating, maintaining, and improving tribal electrical generation, transmission, and distribution facilities.

''(3) The Director may develop, in consultation with Indian tribes, a formula for making grants under this section. The formula may take into account the following—

''(A) total number of acres of Indian land owned by an Indian tribe;

''(B) total number of households on the tribe's Indian land;

''(C) total number of households on the Indian tribe's Indian land that have no electricity service or are underserved; and

''(D) financial or other assets available to the tribe from any source.

''(4) In making a grant under paragraph (2)(E), the Director shall give priority to an application received from an Indian tribe that is not served or is served inadequately by an electric utility, as that term is defined in section 3(4) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(4)), or by a person, State agency, or any other non-federal entity that owns or operates a local distribution facility used for the sale of electric energy to an electric consumer.

''(5) There are authorized to be appropriated to the Department of Energy such sums as may be necessary to carry out the purposes of this section.

''(c) APPLICATION OF BUY INDIAN ACT.—(1) An agency or department of the United States Government may give, in the purchase and sale of electricity, oil, gas, coal, or other energy product or by-product produced, converted, or transferred on Indian lands, preference, under section 23 of the Act of June 25, 1910 (25 U.S.C. 47) (commonly known as the ''Buy Indian Act''), to an energy and resource production enterprise, partnership, corporation, or other type of business organization majority or wholly owned and controlled by an Indian, a tribal government, or a business, enterprise, or operation of the American Indian Tribal Governments.

''(2) In implementing this subsection, an agency or department shall pay no more for energy production than the prevailing market price and shall obtain no less than existing market terms and conditions.

''(d) EFFECT ON OTHER LAWS.—This section does not—

''(1) limit the discretion vested in an Administrator of a Federal power marketing agency to market and allocate Federal power, or

''(2) alter Federal laws under which a Federal power marketing agency markets, allocates, or purchases power.''.

(b) OFFICE OF INDIAN POLICY AND PROGRAMS.—Title II of the Department of Energy Organization Act is amended by adding at the end the following:

''OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

''SEC. 217. (a) There is established within the Department an Office of Indian Energy Policy and Progams. This Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at the rate equal to that of level IV of the Executive Schedule under section 5315 of Title 5, United States Code. The Director shall perform the duties assigned the Director under the Comprehensive Indian Energy Act and this section.

''(b) The Director shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

''(1) promote tribal energy efficiency and utilization;

''(2) modernize and develop, for the benefit of Indian tribes, tribal energy and economic infrastructure related to natural resource development and electrification;

''(3) preserve and promote tribal sovereignty and self determination related to energy matters and energy deregulation;

''(4) lower or stabilize energy costs; and

''(5) electrify tribal members' homes and tribal lands.

''(c) The Director shall carry out the duties assigned the Secretary under title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2603(c) of the Energy Policy Act of 1992 (25 U.S.C. 3503(c)) is amended to read as follows:

''(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.''

(2) The Table of Contents of the Department of Energy Act is amended by inserting after the item relating to section 216 the following new item:

''217. Office of Indian Energy Policy and Programs.''

(3) Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Indian Energy Policy and Programs, Department of Energy.'' after ''Director, Office of Science, Department of Energy.''

SEC. 505. ENVIRONMENTAL DISCLOSURE TO CONSUMERS.

(a) RETAIL SALES.—The Federal Trade Commission shall issue rules requiring each retail electric supplier to include with each monthly billing to retail electric consumers a statement of the known energy sources used to generate the electricity the supplier distributes, on an annual basis, stated in numbers of kilowatt-hours, both in percentages and in the form of a pie chart, of biomass power, coal-fired power, hydropower, natural gas-fired power, nuclear power, oil-fired power, wind power, geothermal power, solar thermal power, photovoltaic power, combined heat and power, and other sources of power, respectively.

(b) WHOLESALE SALES.—The Federal Trade Commission shall issue rules requiring any electric supplier that sells or makes an offer to sell electric energy at wholesale to provide the purchaser or offeree such known information about the energy source used to generate the electricity, on an annual basis, as the Commission may determine.

(c) CERTIFICATION PROGRAM.—The Secretary of Energy, in consultation with the Federal Trade Commission, shall develop a certification program for each retail electric supplier that sells electric energy, at least 50 percent of which, averaged over a year, is generated from renewable energy sources. For purposes of this subsection, the term ''renewable energy source'' means biomass, wind power, geothermal power, solar thermal power, or photovoltaic power.

SEC. 506. CONSUMER PROTECTIONS.

(a) INFORMATION DISCLOSURE.—The Federal Trade Commission shall issue rules requiring any retail electric supplier that sells or makes an offer to sell electric energy, or solicits retail electric consumers to purchase electric energy, to provide the retail electric consumers, in addition to the information required under section 505, a statement containing the following information:

(1) The nature of the service being offered, including information about interruptibility of service.

(2) The price of electric energy, including a description of any variable charges.

(3) A description of all other charges that are associated with the service being offered, including access charges, exit charges, backup service charges, stranded cost recovery charges, and customer service charges.

(4) Information concerning the product or price that the Federal Trade Commission determines is technologically and economically feasible to provide and is of assistance to retail electric consumers in making purchasing decisions.

(b) CONSUMER PRIVACY.—

(1) PROHIBITION.—The Federal Trade Commission shall issue rules prohibiting anyperson who obtains consumer information in connection with the sale or delivery of electric energy to a retail electric consumer from using, disclosing, or permitting access to such information unless the consumer to whom such information relates provides prior written approval.

(2) PERMITTED USE.—The rules issued under this subsection shall not prohibit any person from using, disclosing, or permitting access to consumer information referred to in paragraph (1) for any of the following purposes:

(A) To facilitate a retail electric consumer's change in selection of a retail electric supplier under procedures approved by the State or State commission.

(B) To initiate, render, bill, or collect for the sale or delivery of electric energy to retail electric consumers or for related services.

(C) To protect the rights or property of the person obtaining such information.

(D) To protect retail electric consumers from fraud, abuse, and unlawful subscription in the sale or delivery of electric energy to such consumers.

(E) For law enforcement purposes.

(F) For purposes of compliance with any Federal, State, or local law or regulation authorizing disclosure of information to a Federal, State, or local agency.

(3) AGGREGATE CONSUMER INFORMATION.—The rules issued under this subsection shall permit any person to use, disclose, and permit access to aggregate consumer information and shall require local distribution companies to make such information available to retail electric suppliers upon request and payment of a reasonable fee.

(4) DEFINITIONS.—As used in this section:

(1) The term ''aggregate consumer information'' means collective data that relates to a group or category of retail electric consumers, from which individual consumer identities and characteristics have been removed.

(2) The term ''consumer information'' means information that relates to the quantity, technical configuration, type, destination, or amount of use of electric energy delivered to any retail electric consumer.

(3) The term ''State commission'' has the meaning given such term in section 3(15) of the Federal Power Act (16 U.S.C. 796(15)).

(c) UNFAIR TRADE PRACTICES.—

(1) SLAMMING.—The Federal Trade Commission shall issue rules prohibiting the change of selection of a retail electric supplier except with the informed consent of the retail electric consumer.

(2) CRAMMING.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to a retail electric consumer unless expressly authorized by law or the retail electric consumer.

(d) FEDERAL TRADE COMMISSION ENFORCEMENT.—Violation of a rule issued under this section shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a). All functions and powers of the Federal Trade Commission under such Act are available to the Federal Trade Commission to enforce compliance with this section notwithstanding any jurisdictional limits in such Act.

(e) STATE AUTHORITY.—(1) This section does not preclude a State or State commission from prescribing and enforcing additional laws, rules, or procedures regarding the practices which are the subject of this section, so long as such laws, rules, or procedures are not inconsistent with the provisions of this section or with any rule prescribed by the Federal Trade Commission pursuant to it.

(2) The remedies provided by this section are in addition to any other remedies available by law.

(f) DEFINITIONS.—As used in this section—

(1) the term ''retail electric consumer'' means any person who purchases electric energy for ultimate consumption;

(2) the term ''retail electric supplier'' means any person who sells electric energy to a retail electric consumer for ultimate consumption; and

(3) the term ''State commission'' has the meaning given such term in section 3(15) of the Federal Power Act (16 U.S.C. 796(15)).

SEC. 507. WHOLESALE ELECTRICITY MARKET DATA.

Section 213 of the Federal Power Act (16 U.S.C. 8241) is amended by adding at the end the following:

''(c) WHOLESALE ELECTRICITY MARKET DATA.—

''(1) Not later than 180 days after the date of the enactment of this subsection, the Commission shall, by rule, establish an information system that gives persons who buy electric energy for resale, State regulatory authorities, and the public access to current information about—

''(A) the availability of electric energy generating capacity and known generating constraints, and

''(B) the availability of transmission capacity and known transmission constraints.

''(2) The rule shall require—

''(A) each electric utility and each Federal power marketing administration that owns, operates, or controls facilities used for the generation or transmission of electric energy sold or transmitted in interstate commerce to report, by unit, on a real-time basis—

''(i) the total number of megawatts (as a 60 second average) produced by each generating facility it owns, operates, or controls, and ''(ii) the total number of megawatts of capacity at each facility it owns, operates, or controls that is not being used to generate electric power; and

''(B) each transmitting utility to report, on a real-time basis—

''(i) the total number of megawatts transmitted on each transmission facility it owns, operates, or controls, and

''(ii) the total number of megawatts scheduled and the current capacity or rating of each transmission facility it owns, operates, or controls.

''(3) The Commission may enter agreements with regional electric reliability councils to collect, retain, and make available to persons who buy electric energy for resale, state regulatory authorities, and the public the information required to be submitted by the rule.''.

SEC. 508. WHOLESALE ELECTRIC ENERGY RATES IN THE WESTERN ENERGY MARKET.

(a) IMPOSITION OF WHOLESALE ELECTRIC ENERGY RATES.—Not later than 60 days after the date of enactment of this title, the Federal Energy Regulatory Commission shall impose just and reasonable load-differentiated demand rates or cost-of-service based rates on sales by electric utilities of electric energy at wholesale in the western energy market.

(b) LIMITATIONS.—

(1) IN GENERAL.—A load-differentiated demand rate or cost-of-service based rate shall not apply to a sale of electric energy at wholesale for delivery in a State that—

(A) prohibits electric utilities from passing through to retail consumers wholesale rates approved by the Commission; or

(B) imposes a price limit on the sale of electric energy at retail that—

(i) precludes an electric utility from recovering all of the costs incurred by the electric utility in purchasing electric energy; or

(ii) has precluded an electric utility (or any entity that is authorized to purchase electricity on behalf of an electric utility or a State) from making a payment when due to any entity within the western energy market from which the electric utility purchased electric energy, and the default has not been cured.

(2) NO ORDERS TO SELL WITHOUT GUARANTEE OF PAYMENT.—Notwithstanding section 302 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3362), section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)), or section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071), neither the President, the Secretary of Energy, nor the Commission may issue an order that requires a seller of electric energy or natural gas to sell, on or after the date of enactment of this title, electric energy or natural gas to a purchaser in a State described in paragraph (1) unless there is a guarantee that, in the determination of the Commission, is sufficient to ensure that the seller will be paid—

(A) the full purchase price when due, as agreed upon by the buyer and seller; or

(B) if the buyer and seller are unable to agree upon a price—

(i) a fair and equitable price for natural gas as determined by the President under section 302 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3362), or

(ii) a just and reasonable price for electric energy as determined by the Secretary of Energy or the Commission, as appropriate, under section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)).

(3) REQUIREMENT TO MEET IN-STATE DEMAND.—Notwithstanding any other provision of law, a State electric utility commission in the western energy market may prohibit an electric utility in the State from making any sale of electric energy to a purchaser in a State described in paragraph (1) at any time at which a State electric utility commission determines that the electric utility is not meeting the demand for electric energy in the service area of the electric utility.

(c) REPORT.—Not later than 120 days after the date of enactment of this title, the Secretary of Energy shall—

(1) conduct an investigation to determine whether any electric utility in a State described in subsection (d)(1) has been rendered uncreditworthy or has defaulted on any payment for electric energy as a result of a transfer of funds by the electric utility to a parent company or to an affiliate of the electric utility (except a payment made in accordance with a State deregulation statute); and

(2) submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the investigation.

(d) DURATION.—A load-differentiated demand rate or cost-of-service based rate imposed under this section shall remain in effect until such time as the market for electric energy in the western energy market reflects just and reasonable rates, as determined by the Commission.

(e) AUTHORITY OF STATE REGULATORY AUTHORITIES.—This section does not diminish or have any other effect on the authority of a State regulatory authority (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)) to regulate rates and charges for the sale of electric energy to consumers, including the authority to determine the manner in which wholesale rates shall be passed on to consumers (including the setting of tiered pricing, real-time pricing, and baseline rates).

(g) DEFINITIONS.—For purposes of this section—

(1) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(2) COST-OF-SERVICE BASED RATE.—The term ''cost-of-service based rate'' means a rate, charge, or classification for the sale of electric energy that is equal to—

(A) all the variable and fixed costs for producing the electric energy; and

(B) a reasonable return on invested capital.

(3) ELECTRIC UTILITY.—The term ''electric utility'' means any person, State agency (including any municipality), Federal agency (including the Tennessee Valley Authority or any Federal power marketing agency) that sells electric energy in interstate commerce.

(4) LOAD-DIFFERENTIATED DEMAND RATE.—The term ''load-differentiated demand rate'' means a rate, charge, or classification for the sale of electric energy that reflects differences in the demand for electric energy during various times of day, months, seasons, or other time periods.

(5) WESTERN ENERGY MARKET.—The term ''western energy market'' means the area covered by the Western Systems Coordinating Council of the North American Electric Reliability Council.

(i) REPEAL.—Effective March 1, 2003, this section is repealed, and any load-differentiated demand rate or cost-of-service based rate imposed under this section that is then in effect shall no longer be effective.

SEC. 509. NATURAL GAS RATE CEILING IN CALIFORNIA.

Section 284.8(i) of title 18, Code of Federal Regulations (relating to the waiver of the maximum rate ceiling on capacity release transactions on interstate natural gas pipelines) shall not apply to the transportation of natural gas into the State of California from outside the State, effective on the date of enactment of this section.

SEC. 510. SALE PRICE IN BUNDLED NATURAL GAS TRANSACTIONS.

(a) DISCLOSURE.—Not later than 60 days after the date of enactment of this section, the Federal Energy Regulatory Commission shall issue a rule under section 4 of the Natural Gas Act (15 U.S.C. 717c) requiring any person that sells natural gas subject to the jurisdiction of the Commission in a bundled transaction to file with the Commission, not later than the date specified by the Commission, a statement that discloses—

(1) the portion of the sale price that is attributable to the price paid by the seller for the natural gas; and

(2) the portion of the sale price that is attributable to the price paid for the transportation of the natural gas.

(b) DEFINITION OF BUNDLED TRANSACTION.—For purposes of this section, the term ''bundled transaction'' means a transaction for the sale of natural gas in which the sale price includes both the cost of the natural gas and the cost of transporting the natural gas.

TITLE VI—RENEWABLES AND DISTRIBUTED GENERATION

SEC. 601. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than one year after the date of enactment of this title, and each year thereafter, the Secretary of Energy shall publish an assessment of all renewable energy resources available within the United States.

(b) CONTENTS OF REPORT.—The report published under subsection (a) shall contain—

(1) a detailed inventory describing the available amount and characteristics of solar, wind, biomass, geothermal, hydroelectric and other renewable energy sources, and

(2) such other information as the Secretary of Energy believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource.

SEC. 602. FEDERAL PURCHASE REQUIREMENT.

(a) REQUIREMENT.—The President shall ensure that, of the total amount of electric power the federal government purchases during any fiscal year—

(1) not less than 3 percent in fiscal years 2002 through 2004,

(2) not less than 5 percent in fiscal years 2005 through 2009, and

(3) not less than 7.5 percent in fiscal year 2010 and each fiscal year thereafter—shall be electric power generated by a renewable energy source.

(b) DEFINITION.—For purposes of this section, the term ''renewable energy source'' means—

(1) wind;

(2) biomass;

(3) a geothermal source;

(4) a solar thermal source;

(5) a photovoltaic source;

(6) fuel cells; or

(7) additional hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric dam.

SEC. 603. INTERCONNECTION STANDARDS.

Section 210 of the Federal Power Act (42 U.S.C. 824i) is amended by adding at the end the following:

''(f) SPECIAL RULE FOR DISTRIBUTED GENERATION FACILITIES.—

''(1) DEFINITION.—As used in this subsection, the term 'distributed generation facility' means an electric power generation facility that—

''(A) is designed to serve retail customers at or near the point of consumption; and

''(B) interconnects with local distribution facilities.

''(2) INTERCONNECTION.—A local distribution company shall interconnect a distributed generation facility with the local distribution facilities of such company if the distributed generation facility owner or operator complies with the final rule adopted under paragraph (3) and pays the costs directly related to such interconnection. Costs, terms, and conditions related to such interconnection shall be just, reasonable, and not unduly discriminatory.

''(3) RULES.—Within one year after the date of enactment of this subsection, the Commission shall adopt a final rule to establish safety, reliability, and power quality standards related to distributed generation facilities. For purposes of developing such standards, the Commission may classify distributed power generation facilities based on size and prescribe different requirements for different classes of facilities. The Commission shall establish an advisory committee composed of qualified experts to make recommendations to the Commission on the development of such standards.''.

SEC. 604. NET METERING.

Title VI of the Public Utility Regulatory Policies Act of 1978 is amended by adding at the end the following:

''SEC. 605. NET METERING FOR RENEWABLE ENERGY AND FUEL CELLS.

''(a) DEFINITIONS.—For purposes of this section:

''(1) The term 'eligible on-site generating facility' means—

''(A) a facility on the site of a residential electric consumer with a maximum generating capacity of 100 kilowatts or less that is fueled by solar or wind energy; or

''(B) a facility on the site of a commercial electric consumer with a maximum generating capacity of 250 kilowatts or less that is fueled solely by a renewable energy resource.

''(2) The term 'renewable energy resource' means solar energy, wind energy, biomass, geothermal energy, or fuel cells.

''(3) The term 'net metering service' means service to an electric consumer under which electricity generated by that consumer from an eligible on-site generating facility and delivered to the distribution system through the same meter through which purchased electricity is received may be used to offset electricity provided by the retail electric supplier to the electric consumer during the applicable billing period so that an electric consumer is billed only for the net electricity consumed during the billing period.

''(b) REQUIREMENT TO PROVIDE NET METERING SERVICE.—Each retail electric supplier shall make available upon request net metering service to any retail electric consumer that the supplier currently serves or solicits for service.

''(c) RATES AND CHARGES.—

''(1) IDENTICAL CHARGES.—A retail electric supplier—

''(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other retail electric customers of the electric company in the same rate class; and

''(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

''(2) MEASUREMENT.—A retail electric supplier that supplies electricity to the owner or operator of an on-site generating facility shall measure the quantity of electricity produced by the on-site facility and the quantity of electricity consumed by the owner or operator of an on-site generating facility during a billing period in accordance with normal metering practices.

''(3) ELECTRICITY SUPPLIED EXCEEDING ELECTRICITY GENERATED.—If the quantity of electricity supplied by a retail electric supplier during a billing period exceeds the quantity of electricity generated by an on-site generating facility and fed back to the electric distribution system during the billing period, the supplier may bill the owner or operator for the net quantity of electricity supplied by the retail electric supplier, in accordance with normal metering practices.

''(4) ELECTRICITY GENERATED EXCEEDING ELECTRICITY SUPPLIED.—If the quantity of electricity generated by an on-site generating facility during a billing period exceeds the quantity of electricity supplied by the retail electric supplier during the billing period—

''(A) the retail electric supplier may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

''(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

''(d) SAFETY AND PERFORMANCE STANDARDS.—

''(1) An eligible on-site generating facility and net metering system used by a retail electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

''(2) The Commission, after consultation with State regulatory authorities and non-regulated local distribution systems and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.''

SEC. 605. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.

Part II of the Federal Power Act (16 U.S.C. 824–824m) is amended by adding at the end the following:

''SEC. 217. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.

''(a) IN GENERAL.—The Commission shall ensure that all transmitting utilities provide transmission service to intermittent generators in a manner that does not penalize such generators, directly or indirectly, for characteristics that are—

''(1) inherent to intermittent energy resources; and

''(2) are beyond the control of such generators.

''(b) POLICIES.—The Commission shall ensure that the requirement in subsection (a) is met by adopting such policies as it deems appropriate which shall include, but not be limited to, the following:

''(1) Subject to the sole exception set forth in paragraph (2), the Commission shall ensure that the rates transmitting utilities charge intermittent generator customers for transmission services do not directly or indirectly penalize intermittent generator customers for scheduling deviations.

''(2) The Commission may exempt a transmitting utility from the requirement set forth in subsection (b) if the transmitting utility demonstrates that scheduling deviations by its intermittent generator customers are likely to have a substantial adverse impact on the reliability of the transmitting utility's system. For purposes of administering this exemption, there shall be a rebuttable presumption of no adverse impact where intermittent generators collectively constitute 20 percent or less of total generation interconnected with transmitting utility's system and using transmission services provided by transmitting utility.

''(3) The Commission shall ensure that to the extent any transmission charges recovering the transmitting utility's embedded costs are assessed to intermittent generators, they are assessed to such generators on the basis of kilowatt-hours generated rather than the intermittent generator's capacity.

''(4) The Commission shall require transmitting utilities to offer at least to intermittent generators, if not all transmission customers, access to nonfirm transmission service pursuant to long-term contracts of up to ten years duration under reasonable terms and conditions.

''(c) DEFINITIONS.—In this section:

''(1) INTERMITTENT GENERATOR.—The term 'intermittent generator' means a person that generates electricity using wind or solar energy.

''(2) NONFIRM TRANSMISSION SERVICE.—The term 'nonfirm transmission service' means transmission service provided on an 'as available' basis.

''(3) SCHEDULING DEVIATION.—The term 'scheduling deviation' means delivery of more or less energy than has previously been forecast in a schedule submitted by an intermittent generator to a control area operator or transmitting utility.''.

TITLE VII—HYDROELECTRIC RELICENSING

SEC. 701. ALTERNATIVE CONDITIONS.

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

''(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition.

''(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the alternative condition proposed by the license applicant, and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines that the alternative condition—

''(A) provides equal or greater protection for the reservation than the condition deemed necessary by the Secretary;

''(B) is based on sound science; and

''(C) will either—

''(i) cost less to implement than the condition deemed necessary by the Secretary, or

''(ii) result in less loss of generating capacity than the condition deemed necessary by the Secretary.''.

(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting ''(a)'' before the first sentence; and

(2) adding at the end the following:

''(b)(1) Whenever the Commission shall require a licensee to construct, maintain, or operate a fishway prescribed by the Secretary of the Interior or the Secretary of Commerce under this section, the licensee may propose an alternative.

''(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the alternative proposed by the licensee, if the Secretary of the appropriate department determines that the alternative—

''(i) will result in equal or greater fish passage than the fishway initially prescribed by the Secretary;

''(ii) is based on sound science; and

''(iii) will either—

''(I) cost less to implement than the fishway initially prescribed by the Secretary, or

''(II) result in less loss of generating capacity than the fishway initially prescribed by the Secretary.''.

SEC. 702. DISPOSITION OF HYDROELECTRIC CHARGES.

(a) ANNUAL CHARGES.—Section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1) is amended—

(1) by striking ''subject to annual appropriations Acts'' in the first proviso; and

(2) by inserting after ''(in addition to other funds appropriated for such purposes)'' in the first proviso the following: ''without further appropriation''.

(b) OTHER CHARGES.—Section 17(a) of the Federal Power Act (16 U.S.C. 810(a)) is amended by striking ''into the Treasury of the United States and credited to 'Miscellaneous receipts''' and inserting the following: ''to the Secretary of the department under whose supervision the affected reservation falls, without further appropriation, to be used in accordance with subsection (c)''.

(c) USE OF FUNDS.—Section 17 of the Federal Power Act (16 U.S.C. 810) is further amended by adding at the end the following:

''(c)(1) The Secretary receiving a distribution of 12½ per centum of the proceeds of charges under subsection (a) may use such proceeds solely for the protection of the water resources on—

''(A) the reservation on which the project for which the proceeds were paid is located; or

''(B) the reservation on which the headwaters of the waterway, on which the project for which the proceeds were paid, is located.

''(2) For purposes of this subsection, activities for the protection of water resources for which proceeds made available under this subsection may be used may only include the following:

''(A) promoting the recovery of threatened and endangered species;

''(B) road and trail assessments and plans, maintenance, obliteration, or closure;

''(C) wildlife and fish habitat management;

''(D) multiparty monitoring of water protection activities;

''(E) watershed analysis, including resource conditions and trend assessments;

''(F) erosion control and restoring hydrologic function to meadows, wetlands, and floodplains; and

''(G) job training associated with paragraph (3).

''(3) In order to provide employment and job training opportunities to residents of rural communities located within or near a reservation identified in paragraph (1), the Secretary may make grants or enter into cooperative agreements or contracts with-

''(A) a private, non-profit, or cooperative entity within the same county as the reservation;

''(B) businesses that employ 25 or less employees;

''(C) an entity that will hire or train residents of communities located within or near the reservation to perform the contract; or

''(D) the Youth Conservation Corps or related partnerships with State, local, or non-profit youth groups.''

SEC. 703. RELICENSING STUDY.

(a) IN GENERAL.—The Federal Energy Regulatory Commission shall, in consultation with the Secretary of Commerce, the Secretary of the Interior, and the Secretary of Agriculture, conduct a study of all new licensees issued for existing projects under section 15 since January 1, 1994.

(b) SCOPE.—The study shall analyze:

(1) the length of time the Commission has taken to issue each new license for an existing project;

(2) the additional cost to the licensee attributable to new license conditions;

(3) the change in generating capacity attributable to new license conditions;

(4) the environmental benefits achieved by new license conditions; and

(5) litigation arising from the issuance or failure to issue new licenses for existing projects under section 15 or the imposition or failure to impose new license conditions.

(c) DEFINITION.—As used in this section, the term ''new license condition'' means any condition imposed under-

(1) section 4(e) of the Federal Power Act (16 U.S.C. 797(e)),

(2) section 10(e) of the Federal Power Act (16 U.S.C. 803(e)),

(3) section 100) of the Federal Power Act (16 U.S.C. 8030)),

(4) section 18 of the Federal Power Act (16 U.S.C. 811), or

(5) section 401(d) of the Clean Water Act (33 U.S.C. 1341(d)).

(d) CONSULTATION.—The Commission shall give interested persons and licensees an opportunity to submit information and views in writing.

(e) REPORT.—The Commission shall report its findings to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the House of Representatives not later than six months after the date of enactment of this section.

TITLE VIII—COAL

SEC. 801. DEFINITIONS.

In this title:

(1) COST AND PERFORMANCE GOALS.—The term ''cost and performance goals'' means the cost and performance goals established under section 811.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

Subtitle A—National Coal-Based Technology Development and Applications Program

SEC. 811. COST AND PERFORMANCE GOALS.

(a) IN GENERAL.—The Secretary shall perform an assessment that identifies costs and associated performance of technologies that would permit the continued cost-competitive use of coal for electricity generation, as chemical feedstocks, and as transportation fuel in the periods:

(1) 2007 through 2014;

(2) 2015 through 2019; and

(3) 2020 and each year thereafter.

(b) CONSULTATION.—In establishing the cost and performance goals, the Secretary shall consult with representatives of—

(1) the United States coal industry;

(2) State coal development agencies;

(3) the electric utility industry;

(4) railroads and other transportation industries;

(5) manufacturers of equipment using advanced coal technologies;

(6) organizations representing workers; and

(7) organizations formed to—

(A) further the goals of environmental protection;

(B) promote the use of coal; or

(C) promote the development and use of advanced coal technologies.

(c) TIMING.—The Secretary shall—

(1) not later than 120 days after the date of enactment of this title, issue a set of draft cost and performance goals for public comment; and

(2) not later than 180 days after the date of enactment of this title, after taking into consideration any public comments received, submit to Congress the final cost and performance goals.

SEC. 812. STUDY.

(a) IN GENERAL.—Not later than I year after the date of enactment of this title, the Secretary, in cooperation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall conduct a study to—

(1) identify technologies capable of achieving the cost and performance goals;

(2) assess the costs that would be incurred by, and the period of time that would be required for, the development and demonstration of the cost and performance goals; and

(3) develop recommendations for technology development programs, which the Department of Energy could carry out in cooperation with industry, to develop and demonstrate the cost and performance goals.

(b) COOPERATION.—In carrying out this section, the Secretary shall give due weight to the expert advice of representatives of the entities described in section 811(b).

SEC. 813. TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a program of research on and development, demonstration, and commercial application of coal-based technologies under the statutory authorities available to him for carrying out research and development.

(b) CONDITIONS.—The research, development, demonstration, and commercial application programs identified in section 812(a) shall be designed to achieve the cost and performance goals.

(c) REPORT.—Not later than 18 months after the date of enactment of this title, the Secretary shall submit to the President and Congress a report containing—

(1) a description of the programs that, as of the date of the report, are in effect or are to be carried out by the Department of Energy to support technologies that are designed to achieve the cost and performance goals; and

(2) recommendations for additional authorities required to achieve the cost and performance goals.

SEC. 814. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 2002 through 2012, to remain available until expended.

(b) CONDITIONS OF AUTHORIZATION.—The authorization of appropriations under subsection (a)—

(1) shall be in addition to authorizations of appropriations in effect on the date of enactment of this title; and

(2) shall not be a cap on Department of Energy fossil energy research and development and clean coal technology appropriations.

Subtitle B—Power Plant Improvement Initiative

SEC. 821. POWER PLANT IMPROVEMENT INITIATIVE PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a power plant improvement initiative program that will demonstrate commercial applications of advanced coal-based technologies applicable to new or existing power plants, including co-production plants, which must advance the efficiency, environmental performance, and cost competitiveness well beyond that which is in operation or has been demonstrated on the date of enactment of this title.

(b) PLAN.—Not later than 120 days after the date of enactment of this title, the Secretary shall submit to Congress a plan to carry out subsection (a) that includes a description of—

(1) the program elements and management structure to be used;

(2) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan; and

(3) the demonstration activities proposed to be conducted at new or existing coal-based electric generation units having at least 50 megawatts nameplate rating, including improvements to allow the units to achieve 1 or more of the following:

(A) An overall design efficiency improvement of not less than 3 percent as compared with the efficiency of the unit as operated on the date of enactment of this title and before any retrofit, repowering, replacement, or installation.

(B) A significant improvement in the environmental performance related to the control of sulfur dioxide, nitrogen oxide, and mercury in a manner that is different and well below the cost of technologies that are in operation or have been demonstrated on the date of enactment of this title.

(C) A means of recycling, reusing, or sequestering a significant portion of coal combustion wastes produced by coal-based generating units excluding practices that are commercially available at the date of enactment of this title.

SEC. 822. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Not later than 180 days after the date on which the Secretary submits to Congress the plan under section 821 (b), the Secretary shall solicit proposals for projects at new or existing facilities designed to achieve the levels of performance set forth in section 821(b)(3).

(b) PROJECT CRITERIA.—A solicitation under subsection (a) may include solicitation of a proposal for a project to demonstrate—

(1) the control of emissions of 1 or more pollutants; or

(2) the production of coal combustion byproducts that are capable of obtaining economic values significantly greater than byproducts produced on the date of enactment of this title.

(c) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that—

(1) demonstrate overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements;

(3) achieve, in a cost-effective manner, 1 or more of the criteria described in the solicitation; and

(4) demonstrate technologies that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock on the date of enactment of this title.

(d) FEDERAL SHARE.—The Federal share cost of a project funded under this subtitle shall not exceed 50 percent.

SEC. 823. FUNDING.

To carry out this subtitle, the Secretary may use any unobligated funds available to the Secretary and any funds obligated to any project selected under the clean coal technology program that become unobligated.

TITLE IX—PRICE-ANDERSON ACT REAUTHORIZATION

SEC. 901. SHORT TITLE.

This title may be cited as the ''Price- Anderson Amendments Act of 2001''.

SEC. 902. INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NRC LICENSEES.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.

(b) INDEMNIFICATION OF DOE CONTRACTORS.—Section 170d.(l)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking '', until August 1, 2002,''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.

SEC. 903. MAXIMUM ASSESSMENT.

Section 170 b.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)(1)) is amended by striking ''$10,000,000'' and inserting ''$20,000,000''.

SEC. 904. DOE LIABILITY LIMIT.

(a) AGGREGATE LIABILITY LIMIT.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking subsection (2) and inserting the following:

''(2) In agreements of indemnification entered into under paragraph (1), the Secretary—

''(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and

''(B) shall indemnify the persons indemnified against such claims above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with such contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.''.

(b) CONTRACT AMENDMENTS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking subsection (3) and inserting the following:

''(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person, shall be deemed to be amended, on the date of the enactment of the Price-Anderson Amendments Act of 1999, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection on such date.''.

SEC. 905. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

(b) LIABILITY LIMIT.—Section 170e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

SEC. 906. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''August 1, 2008''.

SEC. 907. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by renumbering paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following new paragraph:

''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 2001, in accordance with the aggregate percentage change in the Consumer Price Index since—

''(A) such date of enactment, in the case of the first adjustment under this subsection; or

''(B) the previous adjustment under this subsection.''.

SEC. 908. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(2) of the Atomic Energy of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NONPROFIT INSTITUTIONS.—Section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a) is further amended by striking subsection d. and inserting the following:

''d. Notwithstanding subsection a., no contractor, subcontractor, or supplier considered to be nonprofit under the Internal Revenue Code of 1954 shall be subject to a civil penalty under this section in excess of the amount of any performance fee paid by the Secretary to such contractor, subcontractor, or supplier under the contract under which the violation or violations; occur.''.

SEC. 909. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall become effective on the date of the enactment of this title.

(b) INDEMNIFICATION PROVISIONS.—The amendments made by sections 703, 704, and 705 shall not apply to any nuclear incident occurring before the date of the enactment of this title.

(c) CIVIL PENALTY PROVISIONS.—The amendments made by section 708 to section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) shall not apply to any violation occurring under a contract entered into before the date of the enactment of this title.

DIVISION C—DOMESTIC OIL AND GAS PRODUCTION AND TRANSPORTATION

TITLE X—OIL AND GAS PRODUCTION

SEC. 1001. OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALE 181.

(a) REQUIREMENT.—Subject to applicable laws and regulations, not later than December 31, 2001, the Secretary of the Interior shall proceed with the proposed Eastern Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 181.

(b) MODIFICATION.—In carrying out the sale under subsection (a), the Secretary of the Interior shall modify the lease area by excluding the 120 blocks in a narrow strip beginning 15 miles from the coast of Alabama. The Secretary shall include the 913 blocks in the area that is greater than 100 miles from the coast of Florida in Lease Sale 181.

SEC. 1002. FEDERAL ONSHORE LEASING PROGRAMS FOR OIL AND GAS.

Consistent with applicable law and regulations, there are authorized to be appropriated to the Secretary of the Interior and the Secretary of Agriculture such sums as may be necessary, including salary expenses to hire additional personnel, to ensure expeditious compliance with National Environmental Policy Act requirements applicable to oil and gas production on public lands and national forest system lands.

SEC. 1003. INCREASING PRODUCTION ON STATE AND PRIVATE LANDS.

(a) STUDY.—The Secretary of Energy, in close coordination with the Interstate Oil and Gas Compact Commission, shall conduct a study to evaluate the opportunities for increasing oil and natural gas production from State and privately controlled lands in the United States. The study shall take into account trends in land use and development that may affect oil and gas development, the various leasing practices and rules for development among the States, and differences in contract terms from State to State and among private landowners. The evaluation should also include an assessment of whether optimal recovery practices, including in-fill drilling, work-overs, and enhanced recovery operations, are being employed consistently to ensure the full development and conservation of the resources. The evaluation should determine what impediments may exist to ensuring optimal recovery practices and make recommendations as to how those impediments could be overcome. The study should also determine whether production rights or leases are controlled by parties no longer interested in fully recovering the resource, with inactivity for a period of time being considered as indicating a lack of interest.

(b) REPORT TO CONGRESS AND GOVERNORS.—Not later than 240 days after the date of enactment of this section, the Secretary shall provide a report to the Committee on Energy and Natural Resources in the Senate, and the Committee on Resources in the House of Representatives, summarizing the findings of the study carried out under subsection (a) and providing recommendations for policies or other actions that could help increase production on State and private lands. The Secretary shall also provide a copy of the report to the Governors of the Member States of the Interstate Oil and Compact Commission.

TITLE XI—PIPELINE SAFETY RESEARCH AND DEVELOPMENT

SEC. 1101. PIPELINE INTEGRITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development to ensure the integrity of natural gas and hazardous liquid pipelines. This research and development program shall include materials inspection techniques, risk assessment methodology, and information systems surety.

(b) PURPOSE.—The purpose of the cooperative research program shall be to promote research and development to—

(1) ensure long-term safety, reliability and service life for existing pipelines;

(2) expand capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(3) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;

(4) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;

(5) develop improved materials and coatings for use in pipelines;

(6) improve the capability, reliability, and practicality of external leak detection devices;

(7) identify underground environments that might lead to shortened service life;

(8) enhance safety in pipeline siting and land use;

(9) minimize the environmental impact of pipelines;

(10) demonstrate technologies that improve pipeline safety, reliability, and integrity;

(11) provide risk assessment tools for optimizing risk mitigation strategies; and

(12) provide highly secure information systems for controlling the operation of pipelines.

(c) AREAS.—In carrying out this title, the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider research and development on natural gas, crude oil, and petroleum product pipelines for—

(1) early crack, defect, and damage detection, including real-time damage monitoring;

(2) automated internal pipeline inspection sensor systems;

(3) land use guidance and set back management along pipeline rights-of-way for communities;

(4) internal corrosion control;

(5) corrosion-resistant coatings;

(6) improved cathodic protection;

(7) inspection techniques where internal inspection is not feasible, including measurement of structural integrity;

(8) external leak detection, including portable real-time video imaging technology, and the advancement of computerized control center leak detection systems utilizing real-time remote field data input;

(9) longer life, high strength, non-corrosive pipeline materials;

(10) assessing the remaining strength of existing pipes;

(11) risk and reliability analysis models, to be used to identify safety improvements that could be realized in the near term resulting from analysis of data obtained from a pipeline performance tracking initiative.

(12) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and

(13) any other areas necessary to ensuring the public safety and protecting the environment.

(d) POINTS OF CONTACT.—

(1) DESIGNATION.—To coordinate and implement the research and development programs and activities authorized under this title—

(A) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department of Transportation who has been appointed by the President and confirmed by the Senate; and

(B) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy who has been appointed by the President and confirmed by the Senate.

(2) DUTIES.—(A) The point of contact for the Department of Transportation shall have the primary responsibility for coordinating and overseeing the implementation of the research, development, and demonstration program plan, as defined in subsections (e) and (f).

(B) The points of contact shall jointly assist in arranging cooperative agreements for research, development, and demonstration involving their respective Departments, national laboratories, universities, and industry research organizations.

(e) RESEARCH AND DEVELOPMENT PROGRAM PLAN.—Within 240 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Energy and the Pipeline Integrity Technical Advisory Committee, shall prepare and submit to the Congress a 5-year program plan to guide activities under this Act. In preparing the program plan, the Secretary of Transportation shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

(f) IMPLEMENTATION.—The Secretary of Transportation shall have primary responsibility for ensuring the five-year plan provided for in subsection (e) is implemented as intended by this Act. In carrying out the research, development, and demonstration activities under this Act, the Secretary of Transportation and the Secretary of Energy may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of agreement available to the Secretary consistent with the recommendations of the Advisory Committee.

(g) REPORTS TO CONGRESS.—The Secretary of Transportation shall report to the Congress annually as to the status and results to date of the implementation of the research and development program plan. The report shall include the activities of the Department of Transportation, the Department of Energy, the national laboratories, universities, and any other research organizations, including industry research organizations.

SEC. 1102. PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish and manage the Pipeline Integrity Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the five-year research, development, and demonstration program plan as defined in section 1101(e). The Advisory Committee shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration carried out under this title.

(b) MEMBERSHIP.—The National Academy of Sciences shall appoint the members of the Pipeline Integrity Technical Advisory Committee after consultation with the Secretary of Transportation and the Secretary of Energy. Members appointed to the Advisory Committee should have the necessary qualifications to provide technical contributions to the purposes of the Advisory Committee.

SEC. 1103. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Secretary of Transportation for carrying out this title $3,000,000, which is to be derived from user fees (49 U.S.C. Sec. 60125), for each of the fiscal years 2002 through 2006.

(b) Of the amounts available in the Oil Spill Liability Trust Fund (26 U.S.C. Sec. 9509), $3,000,000 shall be transferred to the Secretary of Transportation to carry out programs for detection, prevention, and mitigation of oil spills authorized in this title for each of the fiscal years 2002 through 2006.

(c) There are authorized to be appropriated to the Secretary of Energy for carrying out this title such sums as may be necessary for each of the fiscal years 2002 through 2006.

DIVISION D—DIVERSIFYING ENERGY DEMAND AND IMPROVING EFFICIENCY

TITLE XII—VEHICLES

SEC. 1201. VEHICLE FUEL EFFICIENCY.

(a) REQUIREMENT.—The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement mechanisms to increase fuel efficiency of light-duty vehicles to limit total demand for petroleum products by light-duty vehicles in the year 2008 and thereafter to no more than 105 percent of the consumption by such vehicles in the year 2000.

(b) NEGOTIATIONS.—Upon completion of the study of the National Academy of Sciences on the effectiveness and impact of corporate average fuel economy standards, and taking into account its findings, the Secretary of Transportation, in coordination with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall negotiate with the manufacturers of automobiles sold in the United States enforceable mechanisms to increase vehicle efficiency or provide vehicle alternatives to meet the petroleum demand target in subsection (a) while ensuring consumers reliable and affordable transportation services.

(c) RULES.—Upon completion of the negotiations under subsection (b) and, in any event, not later than 18 months after the date of enactment of this section, the Secretary of Transportation shall establish, by rule—

(1) the enforceable mechanisms agreed to under subsection (b); or

(2) if enforceable mechanism cannot be agreed on under subsection (b), specific fuel economy regulations to meet the petroleum demand targets under subsection (a).

(c) ANALYSES AND REPORTS TO CONGRESS.—The Department of Energy shall assist the Secretary of Transportation by carrying out analyses of recommended policies or combinations of policies to determine if the petroleum demand target in subsection (a) is likely to be met. Once enforceable mechanisms are adopted under subsection (b), the Secretary of Energy shall track progress towards meeting the petroleum demand target and shall report to Congress three years after the date of enactment of this section, and every two years thereafter until the year 2008, on the Secretary of Energy's determination as to whether the mechanisms are effectively meeting the petroleum demand target. If the Secretary of Energy determines that the mechanisms are not effectively meeting the target, then the Secretary shall recommend in the report to Congress on further policies that may be required to meet the target.

(d) DEFINITIONS—.In this section:

(1) LIGHT-DUTY VEHICLES.—.The term ''light duty vehicles'' includes passenger automobiles, in addition to all light trucks and sport utility vehicles marketed as passenger vehicles, regardless of weight.

(2) MECHANISMS.—The term ''mechanisms'' includes stronger standards for corporate average fuel economy, alternatives to the current fuel economy standards such as combining cars and light trucks for the purpose of fuel economy regulation, specific fuel efficiency standards by vehicle class, tax incentives for highly efficient or alternative fuel vehicles, updating and expanding the scope of the current gas guzzler tax program, and new programs to promote the purchase of high efficiency and alternative fuel vehicles or early retirement of inefficient vehicles.

SEC. 1202. INCREASED USE OF ALTERNATIVE FUELS BY FEDERAL FLEETS.

(a) REQUIREMENT TO USE ALTERNATIVE FUELS.—Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to read as follows:

''Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels. If the Secretary determines that all dual fueled vehicles acquired pursuant to this section cannot operate on alternative fuels at all times, he may waive the requirement in part, but only to the extent that:

''(i) not later than September 30, 2003, not less than 50 percent of the total annual volume of fuel used in such dual fueled vehicles shall be from alternative fuels; and

''(ii) not later than September 30, 2005, not less than 75 percent of the total annual volume of fuel used in such dual fueled vehicles shall be from alternative fuels.''.

(b) Section 400AA(g)(4)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6374(g)(4)(B)) is amended by adding, after the words, ''solely on alternative fuel'', '', including a three-wheeled enclosed electric vehicle having a vehicle identification number''.

SEC. 1203. EXCEPTION TO HOV PASSENGER REQUIREMENTS FOR ALTERNATIVE FUEL VEHICLES.

Section 102(a)(1) of title 23, United States Code, is amended by inserting after ''required' the following: ''(unless, in the discretion of the State transportation department, the vehicle is being operated on, or is being fueled by, an alternative fuel (as defined in section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)))''.

TITLE XIII—FACILITIES

SEC. 1301. FEDERAL ENERGY BANK.

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' means—

(A) an Executive agency (as defined in section 105 of title 5, United States Code, except that the term also includes the United States Postal Service);

(B) Congress and any other entity in the legislative branch; and

(C) a court and any other entity in the judicial branch.

(2) BANK.—The term ''Bank'' means the Federal Energy Bank established by subsection (b).

(3) ENERGY EFFICIENCY PROJECT.—The term ''energy efficiency project'' means a project that assists an agency in meeting or exceeding the energy efficiency goals stated in—

(A) part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.);

(B) subtitle F of title I of the Energy Policy Act of 1992; and

(C) applicable Executive orders, including Executive Order Nos. 12759 and 12902.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(5) TOTAL UTILITY PAYMENTS.—The term ''total utility payments'' means payments made to supply electricity, natural gas, and any other form of energy to provide the heating, ventilation, and air conditioning, lighting, and other energy needs of an agency facility.

(b) ESTABLISHMENT OF BANK.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the ''Federal Energy Bank'', consisting of—

(A) such amounts as are appropriated to the Bank under subsection (f);

(B) such amounts as are transferred to the Bank under paragraph (2);

(C) such amounts as are repaid to the Bank under subsection (c)(2)(D); and

(D) any interest earned on investment of amounts in the Bank under paragraph (3).

(2) TRANSFERS TO BANK.—

(A) IN GENERAL.—At the beginning of each of fiscal years 2002, 2003, and 2004, each agency shall transfer to the Secretary of the Treasury, for deposit in the Bank, an amount equal to 5 percent of the total utility payments paid by the agency in the preceding fiscal year.

(B) UTILITIES PAID FOR AS PART OF RENTAL PAYMENTS.—The Secretary shall by regulation establish a formula by which the appropriate portion of a rental payment that covers the cost of utilities shall be considered to be a utility payment for the purposes of subparagraph (A).

(3) INVESTMENT OF FUNDS.—The Secretary of the Treasury shall invest such portion of funds in the Bank as is not, in the Secretary's judgment, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(c) LOANS FROM THE BANK.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under paragraph (2).

(2) LOAN PROGRAM.—

(A) IN GENERAL.—In accordance with subsection (d), the Secretary shall establish a program to loan amounts from the Bank to any agency that submits an application satisfactory to the Secretary in order to finance an energy efficiency project.

(B) PERFORMANCE CONTRACTING FUNDING.—To the extent practicable, an agency shall not submit a project for which performance contracting funding is available.

(C) PURPOSES OF LOAN.—

(i) IN GENERAL.—A loan under this section may be made to pay the costs of—

(I) an energy efficiency project; or

(II) development and administration of a performance contract.

(ii) LIMITATION.—An agency may use not more than 15 percent of the amount of a loan under clause (i)(I) to pay the costs of administration and proposal development (including data collection and energy surveys).

(D) REPAYMENTS.—

(i) IN GENERAL.—An agency shall repay to the Bank the principal amount of the energy efficiency project loan plus interest at a rate determined by the President, in consultation with the Secretary and the Secretary of the Treasury.

(ii) WAIVER.—The Secretary may waive the requirement of clause (i) if the Secretary determines that payment of interest by an agency is not required to sustain the needs of the Bank in making energy efficiency project loans.

(E) AGENCY ENERGY BUDGETS.—Until a loan is repaid, an agency budget submitted to Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of the energy conservation measure implemented with funds from the Bank.

(F) AVAILABILITY OF FUNDS.—An agency shall not rescind or reprogram funds made available by this Act. Funds loaned to an agency shall be retained by the agency until expended, without regard to fiscal year limitation.

(d) SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall establish criteria for the selection of energy efficiency projects to be awarded loans in accordance with paragraph (2).

(2) SELECTION CRITERIA.—The Secretary may make loans only for energy efficiency projects that—

(A) are technically feasible;

(B) are determined to be cost-effective using life cycle cost methods established by the Secretary by regulation;

(C) include a measurement and management component to—

(i) commission energy savings for new Federal facilities; and

(ii) monitor and improve energy efficiency management at existing Federal facilities; and

(D) have a project payback period of 7 years or less.

(e) REPORTS AND AUDITS.—

(1) REPORTS TO THE SECRETARY.—Not later than I year after the installation of an energy efficiency project that has a total cost of more than $1,000,000, and each year thereafter, an agency shall submit to the Secretary a report that—

(A) states whether the project meets or fails to meet the energy savings projections for the project; and

(B) for each project that fails to meet the savings projections, states the reasons for the failure and describes proposed remedies.

(2) AUDITS.—The Secretary may audit any energy efficiency project financed with funding from the Bank to assess the project's performance.

(3) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of the total receipts into the Bank, and the total expenditures from the Bank to each agency.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 1302. INCENTIVES FOR ENERGY EFFICIENT SCHOOLS.

(a) ESTABLISHMENT.—There is established in the Department of Education the High Performance Schools Program (hereafter in this section referred to as the ''Program'').

(b) GRANTS.—The Secretary of Education may make grants to State educational agencies—

(1) to assist schools in achieving energy efficiency performance not less than 30 percent below the least efficient levels, as measured over the full fuel cycle, permitted under the 1998 International Energy Conservation Code as it is in effect for new construction and existing buildings;

(2) to administer the Program; and

(3) to promote participation in the Program.

(c) GRANTS TO ASSIST SCHOOL DISTRICTS.—Grants under subsection (b)(1) shall be used for schools that—

(1) have demonstrated a need for such grants in order to respond appropriately to increasing elementary and secondary school enrollments or to make major investments in renovation of school facilities;

(2) have demonstrated that the districts do not have adequate funds to respond appropriately to such enrollments or achieve such investments without assistance;

(3) have made a commitment to use the grant funds to develop high performance school buildings in accordance with a plan that the State educational agency, in consultation with the State energy office, has determined is feasible and appropriate to achieve the purposes for which the grant is made.

(d) GRANTS FOR ADMINSTRATION.—Grants under subsection (b)(2) shall be used to—

(A) evaluate compliance by schools with requirements of this section;

(B) distribute information and materials to clearly define and promote the development of high performance school buildings for both new and existing facilities;

(C) organize and conduct programs for school board members, school personnel, architects, engineers, and others to advance the concepts of high performance school buildings;

(D) obtain technical services and assistance in planning and designing high performance school buildings; or

(E) collect and monitor data and information pertaining to the high performance school building projects.

(e) GRANTS TO PROMOTE PARTICIPATION.—Grants under subsection (b)(3) shall be used for promotional and marketing activities, including facilitating private and public financing, promoting the use of energy service companies, working with school administrations, students, and communities, and coordinating public benefit programs.

(f) SUPPLEMENTING GRANT FUNDS.—The State educational agency shall encourage qualifying schools to supplement funds awarded pursuant to this section with funds from other sources in the implementation of their plans.

(g) PURPOSES.—Except as provided in subsection (h), funds appropriated to carry out this section shall be allocated as follows:

(1) 70 percent shall be used to make grants under subsection (b)(1).

(2) 15 percent shall be used to make grants under subsection (b)(2).

(3) 15 percent shall be used to make grants under subsection (b)(3).

(h) OTHER FUNDS.—The Secretary of Education may retain an amount, not to exceed $300,000 per year, to assist State educational agencies designated in coordinating and implementing the Program. Such funds may be used to develop reference materials to further define the principles and criteria to achieve high performance school buildings.

(i) AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (b) there are authorized to be appropriated—

(1) $200,000,000 for fiscal year 2002,

(2) $210,000,000 for fiscal year 2003,

(3) $220,000,000 for fiscal year 2004,

(4) $230,000,000 for fiscal year 2005, and

(5) such sums as may be necessary for each of the subsequent 6 fiscal years.

(j) DEFINITIONS.—For purposes of this section:

(1) HIGH PERFORMANCE SCHOOL BUILDING.—The term ''high performance school building'' refers to a school building that, in its design, construction, operation, and maintenance, maximizes use of renewable energy, direct use of environmentally clean fossil fuels for supplementary space conditioning and water heating and energy conservation practices, represents the most cost-effective alternatives on a life-cycle basis considering energy price forecasts from the U. S. Energy Information Administration, uses affordable, environmentally preferable, durable materials, enhances indoor environmental quality, protects and conserves water, and optimizes site potential.

(2) RENEWABLE ENERGY.—The term ''renewable energy'' means energy produced by solar, wind, geothermal, hydropower, and biomass power.

(3) SCHOOL.—The term ''school'' means—

(A) an ''elementary school'' as that term is defined in section 14101(14) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(14)),

(B) a ''secondary school'' as that term is defined in section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(25)), or

(C) an elementary of secondary Indian school funded by the Bureau of Indian Affairs.

(4) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the same meaning given such term in section 14101(28) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(28)).

SEC. 1303. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) VOLUNTARY AGREEMENTS.—The Secretary of Energy shall enter into voluntary agreements with one or more persons in industrial sectors that consume significant amounts of primary energy per unit of physical output to reduce the energy intensity of their production activities.

(b) GOAL.—Voluntary agreements under this section shall have a goal of reducing energy intensity by not less than 1 percent each year from 2002 through 2012.

(c) RECOGNITION.—The Secretary of Energy, in cooperation with other appropriate federal agencies, shall develop mechanisms to recognize and publicize the commitments made by participants in voluntary agreements under this section.

(d) DEFINITION.—In this section, the term ''energy intensity'' means the primary energy consumed per unit of physical output in an industrial process.

DIVISION E—ENHANCING RESEARCH, DEVELOPMENT, AND TRAINING

TITLE XIV—RESEARCH AND DEVELOPMENT PROGRAMS

SEC. 1401. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as ''Energy Science and Technology Enhancement Act''.

(b) FINDINGS.—

(1) A coherent strategy for ensuring a diverse national energy supply requires an energy research and development program that supports basic energy research and provides mechanisms to develop, demonstrate, and deploy new energy technologies in partnership with industry.

(2) Federal budget authority for energy research and development, measured in constant 1992 dollars, has declined roughly three-fourths from about $6 billion in 1980 to $1.5 billion in 2000.

(3) According to the Energy Information Administration, an aggressive national energy research, development, and technology deployment program can—

(A) result in United States energy intensity declines of 1.9 percent per year from 1999 to 2020;

(B) reduce United States energy consumption in 2020 by 8 quadrillion Btu from otherwise expected levels; and

(C) reduce carbon dioxide emissions from expected levels of 166 million metric tons in carbon equivalent in 2020.

(4) An aggressive national energy research, development, and technology deployment program can also help maintain domestic United States production of energy. As one example, such a program could increase the success rates of finding and drilling for oil and natural gas, and thereby increase United States hydrocarbon reserves in 2020 by 14 percent over otherwise expected levels, and contributing to natural gas prices in 2020 that would be 20 percent lower than otherwise expected.

(5) An aggressive national energy research, development, and technology deployment program is needed if United States suppliers and manufacturers are to compete in future markets for advanced energy technologies. Vehicles based on advanced energy technologies in automotive applications could account, for example, for nearly 17 percent of all light-duty vehicle sales by 2020 displacing 203,000 oil barrels a day equivalent.

(6) To achieve these results across a broad range of sources of energy supply and energy end-uses, a comprehensive and balanced energy research, development, and technology deployment program must be supported by the Department of Energy.

SEC. 1402. ENHANCED ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT.

(a) GOALS.—It is the sense of Congress that a balanced energy research, development, and deployment program to enhance energy efficiency should have the following goals:

(1) For energy efficiency in housing, the program develop technologies, housing components, designs and production methods that will, by 2010—

(A) reduce the time needed to move technologies to market by 50 percent,

(B) reduce the monthly cost of new housing by 20 percent,

(C) cut the environmental impact and energy use of new housing by 50 percent, and

(D) reduce energy use in 15 million existing homes by 30 percent, and

(E) improve durability and reduce maintenance costs by 50 percent.

(2) For industrial energy efficiency, the program should, in cooperation with the affected industries—

(A) develop a microturbine (40 to 300 kilowatt) that is more than 40 percent efficient by 2006,

(B) develop a microturbine that is more than 50 percent efficient by 2010,

(C) develop advanced materials for combustion systems that reduce emissions of nitrogen oxides by 30 to 50 percent while increasing efficiency 5 to 10 percent by 2007, and

(D) improve the energy intensity of the major energy-consuming industries by at least 25 percent by 2010.

(3) For transportation energy efficiency, the program should, in cooperation with affected industries—

(A) develop an 80-mile-per-gallon production prototype passenger automobile by 2004,

(B) develop a heavy truck (Classes 7 and 8) with ultra low emissions and the ability to use an alternative fuel that has an average fuel economy of—

(i) 10 miles per gallon by 2007, and

(ii) 13 miles per gallon by 2010,

(C) develop a production prototype of a passenger automobile with zero equivalent emissions that has an average fuel economy of 100 miles per gallon by 2010, and

(D) improve, by 2010, the average fuel economy of trucks—

(i) in Classes 1 and 2 by 300 percent, and

(ii) in Classes 3 through 6 by 200 percent.

(b) DEFINITION.—For purposes of subsection (a)(2), the term ''major energy consuming industries'' means—

(1) the forest product industry,

(2) the steel industry,

(3) the aluminum industry,

(4) the metal casting industry,

(5) the chemical industry,

(6) the petroleum refining industry, and

(7) the glass-making industry.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for operating expenses and capital equipment for research, development, demonstration, and initial deployment assistance activities related to energy efficiency research and development including state and local grants and the federal energy management program—

(1) $879,000,000 for fiscal year 2002;

(2) $948,000,000 for fiscal year 2003;

(3) $1,024,000,000 for fiscal year 2004;

(4) $1,106,000,000 for fiscal year 2005; and

(5) $1,195,000,000 for fiscal year 2006.

(d) SPECIAL PROJECTS IN ENERGY-EFFICIENT TRANSMISSION.—From amounts authorized under this section, the Secretary of Energy shall make not more than 3 awards for projects demonstrating the use of advanced technology—

(1) to construct a bulk electricity transmission line of not less than 35 miles based on wire fabricated from superconducting materials; and

(2) to provide a 20 percent increase in the average efficiency in electricity transmission systems in rural and remote areas.

SEC. 1403. ENHANCED RENEWABLE ENERGY RESEARCH AND DEVELOPMENT.

(a) GOALS.—It is the sense of Congress that a balanced energy research, development, and deployment program to enhance renewable energy should have the following goals.

(1) For wind power, the program should reduce the cost of wind electricity by 50 percent by 2006, so that wind power can be widely competitive with fossil-fuel-based electricity in a restructured electric industry, with concentration within the program on a variety of advanced wind turbine concepts and manufacturing technologies.

(2) For photovoltaics, the programs should pursue research and development that would lead to photovoltaic systems prices of $3,000 per kilowatt in 2003 and $1500 per kilowatt by 2006. Program activities should include assisting industry in developing manufacturing technologies, giving greater attention to balance of system issues, and expanding fundamental research on relevant advanced materials.

(3) For solar thermal electric systems the program should strengthen ongoing research and development combining high-efficiency and high-temperature receivers with advanced thermal storage and power cycles, with the goal of making solar-only power (including baseload solar power) widely competitive with fossil fuel power by 2015.

(4) For biomass-based power systems, the program should enable commercialization, within five years, integrated power-generating technologies that employ gas turbines and fuel cells integrated with biomass gasifiers. The program should embrace an interagency bioenergy framework to triple United States bioenergy use by 2010.

(5) For geothermal energy, the programs should continue work on hydrothermal systems, and reactivate research and development on advanced concepts, giving top priority to high-grade hot dry-rock geothermal energy. This technology offers the long-term potential, with advanced drilling and reservoir exploitation technology, of providing heat and baseload electricity in most areas of the United States.

(6) For biofuels, the program should accelerate research and development on advanced enzymatic hydrolysis technology for making ethanol from cellulosic feedstock, with the goal that between 2010 and 2015 ethanol produced from energy crops would be fully competitive in terms of price with gasoline as a neat fuel, in either internal combustion engine or fuel cell vehicles. The programs should coordinate this development with the biopower program so as to co-optimize the production of ethanol from the carbohydrate fractions of the biomass and electricity from the lighting using advanced biopower technology using a suite of integrated systems from gas turbines to fuel cells.

(7) For hydrogen-based energy systems, the program should support research and development on hydrogen-using and hydrogen-producing technologies. The programs should also coordinate hydrogen-using technology development with proton-exchange-membrane fuel-cell vehicle development activities under the enhanced energy efficiency program in section 1002.

(8) For hydropower, the program should provide a new generation of turbine technologies that are less damaging to fish and aquatic ecosystems. By deploying such technologies at existing dams and in new low-head, run-of-river applications, as much as an additional 50,000 MW could be possible by 2020.

(9) For electric energy and storage, the program should develop a high capacity superconducting transmission lines, generators, and develop distributed generating systems to accommodate multiple types of energy sources under a common interconnect standard.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for operating expenses and capital equipment for research, development, demonstration, and initial deployment assistance activities related to solar and renewable resources technologies, under the Office of Energy Efficiency and Renewable Energy, as follows:

(1) $419,500,000 for fiscal year 2002;

(2) $468,000,000 for fiscal year 2003;

(3) $523,000,000 for fiscal year 2004;

(4) $583,000,000 for fiscal year 2005; and

(5) $652,000,000 for fiscal year 2006.

(d) SPECIAL PROJECTS IN RENEWABLE ENERGY.—From amounts authorized under this section, the Secretary of Energy shall make not more than 3 awards for projects demonstrating the use of advanced wind energy technology to assist in delivering electricity in rural and remote locations. The Secretary may provide financial assistance to rural electric cooperatives and other rural entities seeking to submit proposals for such projects.

SEC. 1404. ENHANCED FOSSIL ENERGY RESEARCH AND DEVELOPMENT.

(a) GOALS.—It is the sense of Congress that a balanced energy research, development, and deployment program to enhance renewable energy should have the following goals:

(1) For core fossil energy research and development, the program should achieve the goals outlined by the Department of Energy's Vision 21 program for fossil energy research. This research should aim towards increased efficiency of the combined cycle using high temperature fuel cells, advanced gasification technologies for coal and biomass to produce power and clean fuels. The program should include a carbon dioxide based sequestration program to help reduce global warming.

(2) For offshore oil and natural gas resources, the program should investigate and develop technologies to—

(A) extract methane hydrates in coastal waters of the United States, and

(B) develop natural gas and oil reserves in the ultra-deepwater of the Central and Western Gulf of Mexico. Research and development on ultra-deepwater resource recovery shall focus on improving the safety and efficiency of such recovery and of sub-sea production technology used for such recovery, while lowering costs.

(3) For transportation fuels, the program should support a comprehensive transportation fuels strategy to increase the price elasticity of oil supply and demand by focusing research on reducing the cost of producing transportation fuels from natural gas and indirect liquefaction of coal and biomass.

(b) STUDY.—The Secretary of Energy, in consultation with the Secretary of the Interior, the Administrator of the Environmental Protection Agency and affected industries (including electric utilities, electrical equipment manufacturers, and organizations representing electrical workers) should conduct a study to identify technologies and a research program that would permit the cost-competitive use of coal for electricity generation through 2020 while furthering national environmental goals.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts authorized under section 814 of this Act, there are authorized to be appropriated to the Secretary of Energy for operating expenses and capital equipment for research, development, demonstration, and initial deployment assistance activities related to fossil energy resources technologies, under the Office of Fossil Energy, including the clean coal technology demonstration program:

(1) $462,500,000 for fiscal year 2002;

(2) $485,000,000 for fiscal year 2003;

(3) $508,000,000 for fiscal year 2004;

(4) $532,000,000 for fiscal year 2005; and

(5) $558,000,000 for fiscal year 2006.

SEC. 1405. ENHANCED NUCLEAR ENERGY RESEARCH AND DEVELOPMENT.

(a) GOALS.—It is the sense of Congress that a balanced energy research, development, and deployment program to enhance renewable energy should have the following goals:

(1) The program should support research related to existing United States nuclear power reactors to extend their lifetimes and increase their reliability while optimizing their current operations for greater efficiencies.

(2) The program should address examine advanced proliferation-resistant reactor designs, proliferation-resistant and high burn-up nuclear fuels, minimization of generation of radioactive materials, improved nuclear waste management technologies, and improved instrumentation science.

(3) The program should attract new students and faculty to the nuclear sciences and nuclear engineering through a university-based fundamental research program for existing faculty and new junior faculty, a program to re-license existing training reactors at universities in conjunction with industry, and a program to complete the conversion of existing training reactors with proliferation resistant fuels that are low enriched and to

adapt those reactors to new investigative uses.

(4) The program should maintain a national capability and infrastructure to produce medical isotopes and ensure a well trained cadre of nuclear medicine specialists in partnership with industry.

(5) The program should ensure that our nation has adequate capability for power future satellite and space missions.

(6) The programs should investigate the fundamental and applied sciences associated with high- and low-energy accelerators as a method to transmute nuclear waste, particularly wastes that may be difficult to dispose of by other methods.

(7) The program should maintain, where appropriate through a prioritization process, a balanced research infrastructure so that future research programs can utilize these facilities.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for operating expenses and capital equipment for research, development, demonstration, and initial deployment assistance activities related to nuclear energy research and development:

(1) $433,000,000 for fiscal year 2002;

(2) $461,000,000 for fiscal year 2003;

(3) $491,000,000 for fiscal year 2004;

(4) $523,000,000 for fiscal year 2005; and

(5) $557,000,000 for fiscal year 2006.

SEC. 1406. ENHANCED PROGRAMS IN FUNDAMENTAL ENERGY SCIENCE.

(a) FINDINGS.—The Congress finds the following:

(1) The Office of Science within the Department of Energy is the nation's single largest funding source for the basic physical sciences. These intellectual disciplines, which include physics, chemistry, and materials science, are crucial to the nation's future ability to develop energy technologies. The United States should be the world leader in these areas.

(2) Despite the importance of the physical sciences, the Office of Science budget has remained stagnant over the past decade.

(3) The stagnation in funding for the physical sciences through the Office of Science has been reflected in a decline in United States contributions to leading scientific journals, as the share of European and Asian submissions to these journals since 1990 has increased from 50 to 75 percent while the United States share has decreased to 25 percent.

(b) GOALS.—It is the sense of Congress that the Department of Energy, through the Office of Science, should—

(1) develop a robust portfolio of fundamental energy research, including chemical sciences, physics, materials sciences, biological and environmental sciences, geosciences, engineering sciences, plasma sciences, mathematics, and advanced scientific computing;

(2) maintain, upgrade and expand the scientific user facilities maintained by the Office of Science and insure that they are an integral part of the Department's mission for exploring the frontiers of fundamental energy sciences;

(3) maintain a leading-edge research capability in the energy-related aspects of nanoscience and nanotechnology, advanced scientific computing and genome research; and

(4) ensure that its fundamental energy sciences programs, where appropriate, help inform the applied research and development programs of the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for operating expenses and capital equipment for fundamental energy research and development in the Office of Science—

(1) $3,716,000,000 for fiscal year 2002;

(2) $4,087,000,000 for fiscal year 2003;

(3) $4,496,000,000 for fiscal year 2004;

(4) $4,946,000,000 for fiscal year 2005; and

(5) $5,440,000,000 for fiscal year 2006.

TITLE XV—MANAGEMENT OF DOE SCIENCE AND TECHNOLOGY PROGRAMS

SEC. 1501. MERIT REVIEW.

Awards of funds authorized under title XIV shall be made only after independent review of the scientific and technical merit of the proposals therefor has been undertaken by the Department of Energy.

SEC. 1502. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—For research and development projects funded from appropriations authorized under sections 1402 through 1405, the Secretary of Energy shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this paragraph if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND DEPLOYMENT.—For demonstration and deployment activities funded from appropriations authorized under sections 1402 through 1405, the Secretary of Energy shall require a commitment from non-Federal sources of at least 50 percent of the costs of the project directly and specifically related to any demonstration, deployment, or commercial application. The Secretary may reduce or eliminate the non-Federal requirement under this paragraph if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet one or more goals of this title.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary shall include cash, personnel, services, equipment, and other resources.

SEC. 1503. IMPROVED COORDINATION AND MANAGEMENT OF SCIENCE AND TECHNOLOGY.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—

(1) ESTABLISHMENT.—The Secretary of Energy shall establish an advisory board to oversee Department of Energy research and development programs in each of the following areas—

(A) energy efficiency;

(B) renewable energy;

(C) fossil energy; and

(D) nuclear energy.

The Secretary may designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this subsection, or may enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(2) UTILIZATION OF EXISTING COMMITTEES.—The Secretary of Energy shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act by the Office of Science to oversee research and development programs under that Office.

(3) MEMBERSHIP.—Each advisory board under this subsection shall consist of experts drawn from industry, academia, federal laboratories, or other research institutions.

(4) MEETINGS AND PURPOSES.—Each advisory board under this subsection shall meet at least semi-annually to review and advise on the progress made by the respective research, development, and deployment program. The advisory board shall also review the adequacy and relevance of the goals established for each program by Congress and the President, and may otherwise advise on promising future directions in research and development that should be considered by each program.

(b) EFFECTIVE COORDINATION OF DEPARTMENT PROGRAMS.—Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows:

''(b)(1) There shall be in the Department an Under Secretary for Science and Technology, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(2) The Under Secretary for Science and Technology shall be appointed from among persons who—

''(A) have extensive background in scientific or engineering fields; and

''(B) are well qualified to manage the civilian research and development programs of the Department of Energy.

''(3) The Under Secretary for Science and Technology shall—

''(A) serve as the Science and Technology Advisor to the Secretary;

''(B) monitor the Department's research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;

''(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;

''(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

''(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department; and

''(F) exercise authority and responsibility over the performance of functions under section 203(a)(2), as well as other civilian research and development authorities assigned to the Secretary by statute.

(c) TRANSFER OF RESPONSIBILITIES FROM OFFICE OF SCIENCE.—Section 209 of the Department of Energy Organization Act (41 U.S.C. 7139) is amended by—

(1) striking ''(a)''; and

(2) striking subsection (b).

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is further amended by adding the following at the end:

''(c) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(d) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.''.

(2) Section 5314 of title 5, United States Code is amended by striking ''Under Secretaries of Energy (2)'' and inserting ''Under Secretaries of Energy (3)''.

TITLE XVI—PERSONNEL AND TRAINING

SEC. 1601. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) WORKFORCE TRENDS.—

(1) MONITORING.—The Secretary of Energy, acting through the Administrator of the Energy Information Administration, in consultation with the Secretary of Labor, shall monitor trends in the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing and commercializing devices to increase energy efficiency, the oil and gas industry, nuclear power industry, the coal industry, and other industrial sectors as the Secretary of Energy may deem appropriate.

(2) ANNUAL REPORTS.—The Administrator of the Energy Information Administration shall include statistics on energy industry workforce trends in the annual reports of the Energy Information Administration.

(3) SPECIAL REPORTS.—The Secretary shall report to the appropriate committees of Congress whenever the Secretary determines that significant shortfalls of technical personnel in one or more energy industry segments are forecast or have occurred.

(b) TRAINEESHIP GRANTS FOR TECHNICALLY SKILLED PERSONNEL.—

(1) GRANT PROGRAMS.—The Secretary shall establish grant programs in the appropriate offices of the Department of Energy to enhance training of technically skilled personnel for which a shortfall is determined under subsection (a).

(2) ELIGIBLE INSTITUTIONS.—As determined by the Secretary of Energy to be appropriate to the particular workforce shortfall, the Secretary shall make grants under paragraph (1) to—

(A) an institution of higher education (within the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(B) a postsecondary educational institution providing vocational and technical education (within the meaning given those terms in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302)); or

(C) appropriate agencies of State, local, or tribal governments.

SEC. 1602. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.

(a) MODEL GUIDELINES.—The Secretary of Energy shall, in cooperation with electric utilities and local distribution companies and recognized representatives of employees of those entities, develop model employee training guidelines to support electric supply system reliability and safety.

(b) CONTENT OF GUIDELINES.—The guidelines under this section shall include—

(1) requirements for worker training, competency, and certification, developed using criteria set forth by the Utility Industry Group recognized by the National Skill Standards Board; and

(2) consolidation of existing guidelines on the construction, operation, maintenance, and inspection of electric supply generation, transmission and distribution facilities such as those established by the National Electric Safety Code and other industry consensus standards.

EXHIBIT I

[From the Wall Street Journal, Mar. 21, 2001]

STATES REDISCOVER ENERGY POLICIES—LOOMING POWER CRISES SPUR A RETURN TO STRATEGIES FOSTERING CONSERVATION

(By Robert Gavin)

Energy policy is hot.

Again.

Spurred by sharply rising prices and California's electricity fiasco, states from coast to coast are dusting off decade-old energy plans and revisiting the policies that sprang from past crises. At least five governors have created task forces to recommend responses to the current crisis while energy legislation of all sorts is pending in nearly every state capital in the nation.

In the Northeast, where officials fear a hot summer could bring electricity shortages and soaring prices, the New England Governors' Conference has, after four years of dormancy, revived its power-planning arm to coordinate every policy among the six states. And at ground zero, California, lawmakers have filed more than 30 energy-related bills.

BACK TO THE FUTURE

The policies under consideration should be familiar to anyone who remembers the energy shocks of the 1970s and the high prices of the 1980s—old standbys like tax breaks for new power sources, such as windmills or solar cells; rebates for energy-efficient appliances and renovations; and just plain-old planning ahead. But this time, consumer and environmental activists say, state officials ought to do something different; actually follow the policies they adopt.

Today's situation might well be far less dire had states stuck with programs adopted in the wake of the earlier energy crises, particularly in energy efficiency. These programs—financed by small surcharges on utility bills, administered by utilities and overseen by state regulators—were key components of energy policies in nearly every state. But in the years leading up to the current crisis, spending on state energy-efficiency programs fell by nearly half nationwide—to $912.5 million in 1998 from $1.65 billion in 1993—at a cost of nearly 15,000 megawatts in power savings, according to the American Council for an Energy-Efficient Economy, a Washington, D.C., advocacy group.

California, by many estimates, would have 1,000 more megawatts of power available right now had it merely maintained energy-efficiency spending at 1993 levels, instead of allowing it to plunge by half. That's enough generating capacity to power about one million homes. In Washington State, where a drought is hampering hydroelectric generation and compounding the West's power shortage, steady investment in energy efficiency would have produced 300 megawatts in extra generating capacity (enough for about 300,000 households), according to the NW Energy Coalition, a Seattle-based group that advocates for conservation and alternative energy sources, like wind and solar power.

Energy-efficiency spending fell 73% in Washington between 1993 and 1998. Ironically, the decline coincided with the state's 1994 adoption of an energy strategy that stated its main focus was efficiency. ''There's no question that had we maintained that commitment to conservation, we'd be several hundred megawatts better off,'' says David Danner, energy policy adviser to Washington Gov. Gary Locke.

The West, of course, isn't alone. Two-thirds of states allowed energy-efficiency spending to fall by 20% or more between 1993 and 1998, including Georgia, which saw a 97% reduction; Michigan, 93%; and Pennsylvania, 92%. More broadly, these declines reflect a trend that relegated state energy policies and programs to diminished roles. In 1989, the average state energy office had 44 employees and a budget of $22.5 million, according to the National Association of State Energy Officials, an Alexandria, Va.-based professional organization. A decade later, the average office had only 29 employees and a $14.5 million budget—a cut of about 35%. ''There wasn't a whole lot of interest in energy,'' says Frank Bishop, executive director of the energy-officials group.

MARKET FORCES

This lack of interest emerged from cheap and apparently plentiful power supplies available in the mid-1990s, and a national movement toward energy deregulation. In the West, for example, wholesale electricity prices in 1995 plunged well below $20 per megawatt hour—compared with prices that today sometimes exceed $300 per megawatt hour—and energy efficiency didn't seem to pay.

Steve King, a spokesman for the Washington Utilities and Transportation Commission, says regulators there allowed utilities to dramatically reduce spending on energy efficiency during this period because such policies couldn't deliver power as cheaply as the market.

At the same time, political leaders across the nation were embracing the central tenet of deregulation: that the market, rather than centralized state energy policy, could determine the right mix of power production and energy conservation to ensure stable supplies and prices. Under pressure from utilities, which, in preparation for competition wanted to shed any costs that might contribute to higher rates, policy makers allowed energy-efficient programs to be scaled back. Under Massachusetts' 1997 deregulation law, for example, utility-administered efficiency programs are scheduled to be phased out by 2002. Lawmakers, however, now are expected to extend the program and a utility-bill surcharge of about 0.3% for at least another five years.

''What everybody wants to avoid is being the next California,'' John Shea, director of energy and environment at the New England Governors' Conference, says of the newfound interest in such policies.

ON AGAIN, OFF AGAIN

To be sure, some argue that the market works, and the recent resurgence in energy-efficiency spending is just a natural part of that. In New York, state regulators and government-owned utilities recently restored energy-efficiency spending to near its 1993 levels after allowing it to fall by some 60%. Paul DeCotis, director of energy analysis at the New York State Energy and Research Development Authority, says that maintaining big energy-efficiency funds when prices are low doesn't make sense. Unless utility bills are high enough to justify consumers' making the investment, rebates alone are unlikely to get people to buy energy-efficient products.

''One could argue that the responsible public policy will be to turn efficiency programs on and [then] off when they can no longer be economically justified,'' says Mr. DeCotis.

Still, many observers believe now that states are rediscovering energy efficiency, they will be sticking with it for the long haul. The reason: California, of course. ''The severity of this problem is going to be a vivid memory for long years,'' says Ralph Cavanagh, energy-programs director for the Natural Resources Defense Council, a New York-based environmental advocacy group, ''and the desire to never see this happen again is not going to fade anytime soon.''

POWERED DOWN

Most states allowed reduced spending on energy-efficiency programs in recent years, when power was cheap. Here are the 10 states with the biggest declines:

State	1993 Spending (In thousands)	Percent Change	
West Virginia	$1,157	$0	−100
Nevada	5,515	4	−100
Virginia	9,477	192	−98
Georgia	42,015	1,248	−97
Michigan	55,707	3,901	−93
Indiana	28,502	2,051	−93
Pennsylvania	15,498	1,236	−92
Alabama	4,863	496	−90
Idaho	20,819	2,393	−89

State	1993 Spending (In thousands)	Percent Change	
Nebraska	530	71	−87
U.S.	1,651,032	912,525	−45

Source: American Council for an Energy-Efficient Economy

Mr. REID. Mr. President, I am generally pleased to be a cosponsor of this Democratic energy package. It is made up of two pieces: one on energy policy named the Comprehensive and Balanced Energy Policy Act of 2001 and the other on energy tax incentives called the Energy Security Tax and Policy Act of 2001.

Unlike the President's and the Republicans' energy package, these bills show that the Democrats are taking leadership in correcting complex short- and long-term deficiencies in our national energy policy. We choose to emphasize energy efficiency, renewables, security and reliability, and we recognize that our energy policy must be environmentally responsible.

Not everything in these bills is perfect. In fact, I have serious substantive and jurisdictional objections to an extension of the Price-Anderson Act, which provides a huge, hidden subsidy to the nuclear industry. And, I think we could do more to address climate change. But, this is a good place to start a serious and swift debate.

My state of Nevada will benefit greatly from these bills. My bill, S. 249, the Renewable Energy Development Incentives Act, has been largely incorporated in this package. It makes the wind, solar, geothermal and biomass electricity production tax credit permanent. There are also other important provisions that will encourage the development of infrastructure to meet the specific needs of renewable and distributed electricity generation.

Nevada is rich in renewable resources. Currently, a major wind farm is being built at the Nevada Test Site that will deliver 260 MW to meet the needs of 260,000 Nevadans. Nevada is sometimes known as the ''Saudi Arabia of Geothermal,'' with a long-term potential of 2,500 to 3,700 MW, enough capacity to meet half the state's present energy needs. And, rough estimates suggest that the solar energy in a 100^2 mile area in Nevada could meet the annual electricity demand for the entire US.

The Democratic energy policy bill includes important provisions and incentives to improve reliability and the development of new transmission access. Nevada is inextricably linked to the Western grid and the California market, so we are really feeling the shockwaves of the crisis there. Nearly 50 percent of the power generated in Nevada is sent to California, leaving us in an unenviable importing situation. Plus, generation and transmission access in Nevada has not kept up with our phenomenal growth and could lead to supply shortfalls in the north this year and in the south next year.

Our bills are focused on avoiding supply problems like California's. We want to stimulate the development of cleaner energy sources that do not foul our air, land or water and encourage sources that are economically sustainable. We should and can avert the need to crack down further on future energy-related pollution as Congress was forced to do in the Clean Air Act Amendments of 1990 to protect the public's health and the environment.

That's why we are working in the Environment and Public Works Committee on a multi-pollutant bill to reduce electric utility emissions. Despite the President's flip-flop on a comprehensive bill covering carbon dioxide, we hope to develop a bipartisan bill that significantly reduces anticipated power plant emissions of sulfur dioxide, nitrogen oxides, mercury and carbon dioxide. We can do this in a sensible way that will provide long term certainty to power producers if they invest in the right kinds of generation capacity now. Then, we can all be assured of a stable electricity supply for the future and a cleaner environment.

We are taking a major step in addressing climate change in this policy bill. Science continues to show us that manmade sources of airborne carbon are causing the global warming that becomes clearer every day. Now, experts say that average temperatures could rise from 3–10 degrees over the next 100 years, causing extreme storms and droughts, ice cap melting, sea level rising, potentially dangerous public health crises, and billions, if not, trillions of dollars in economic damage.

The President needs to lead the nation and we need leadership today to address the challenge of climate change. We think he should establish a commission to propose an integrated way to achieve at least the reductions in greenhouse gas emissions that his father, President Bush, approved and accepted and that the Senate ratified as part of the United Nations Framework Convention on Climate Change. The nation needs a constructive proposal to meet that target as soon as possible, and the President has the administrative and technical resources to do this. Greenhouse gas concentrations are dangerously high and our international trading partners are wondering if the U.S. is going to abrogate its responsibility to be a good global citizen. The time for delay is over.

We have taken some important steps in this legislation to start addressing climate change—encouraging renewables and this new Presidential commission. But, we also have included a requirement that the efficiency of light-duty vehicles must increase significantly. The transportation sector is responsible for more than a third of U.S. greenhouse gas emissions. The national fleet has become increasingly less fuel efficient as manufacturers sell larger and larger sport utility vehicles that do not meet passenger car standards. As a result, carbon dioxide emissions and air pollution problems are increasing and our energy security is badly threatened.

In the energy tax bill, we also are taking a new and extraordinary precaution to ensure that the energy tax incentives that we provide will protect the environment. Those incentives will only be available when energy producers or investors are in full compliance with state and federal pollution prevention, control and permit requirements. This is good precedent and good tax policy.

For the most part, these bills are charting a new, more holistic direction. We have to consider all the facets of our energy decisions, especially their impact on the global climate. That's why I'm disappointed that this package includes a very short-sighted section extending the Price-Anderson Act, and thus continuing to limit the liability of the nuclear industry for catastrophic accidents. That section provides an unfair advantage to an industry that has yet to resolve serious long term public health, safety and waste issues.

Under the Price-Anderson Act, the owners of commercial nuclear power reactors and Department of Energy contractors have their liability capped far below the potential cost of a nuclear incident. This system amounts to what one economic analysis determined was a $130 billion subsidy for the nuclear power industry. This seems to be an unnecessary benefit for an industry that claims to be a perfectly safe alternative to other energy sources. But, I'm glad to note that Senators BINGAMAN and MURKOWSKI have agreed that the Environment Committee will be consulted on and will have sequential referral of any bills at all that affect the Price-Anderson Act.

In one sense, the President was right last week when he said that, ''. . ..the nation has got a real problem when it comes to energy.'' We do have a nearly unquenchable thirst for cheap power which verges on an unhealthy addiction. This thirst has fueled our economic growth, but it has also drastically affected our environmental quality and created a dependency that leaves us vulnerable to market manipulation, disruptions and fluctuations. Our package is designed to avoid making stupid choices in the rush to satisfy that thirst in the short term. We want and need a dependable and replenishable supply of energy that doesn't leave us always gasping for more.

I hope the President and his energy task force will work with us to move thoughtful legislation that provides a stable and environmentally sustainable energy policy.

By Mr. ROBERTS (for himself, Mr. GRAMM, and Mr. HAGEL):

S. 599. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 to establish permanent trade negotiating and trade agreement implementing authority; to the Committee on Finance.

Mr. ROBERTS. Mr. President, I rise today to introduce legislation to establish permanent trade promotion authority, also known as Fast Track Trade Negotiating Authority. I am proud, to have Senators GRAMM, and HAGEL on board in this effort to give the Executive and Legislative branches the capacity to claim new markets for American products and services.

As the chairman of the Senate Committee on Banking, Housing, and Urban Affairs, as well as a member of the Finance Committee's subcommittee on International Trade, Senator GRAMM is a leading proponent of opening markets worldwide. I believe he was the first to introduce fast track legislation in the 107th Congress and his January 22nd bill, S. 136, is the basis for the bill I introduce today.

As the chairman of the Foreign Relations Committee's Subcommittee on International Economic Policy, Export and Trade Promotion, Senator HAGEL is also a leader on trade issues and has consistently supported global economic engagement.

Our bill, the Permanent Trade Promotion Authority and Market Access Act of 2001, amends the Omnibus Trade and Competitiveness Act of 1988 to extend fast track trade negotiating authority indefinitely. As colleagues recall, fast track includes both trade agreement negotiating authority and congressional fast track procedures, specifically expedited consideration of an agreement followed by the approval or rejection without amendments. Fast track trade negotiating authority was last authorized by the Omnibus Trade and Competitiveness Act of 1988.

Since expiration of the 1988 bill in early 1994, the White House has not had authority to negotiate trade agreements under fast track procedures. The President has been effectively prohibited from executing an aggressive trade policy, negotiating agreements when and where opportunities arise.

In his '2001 Trade Policy Agenda', U.S. Trade Representative Robert B. Zoellick noted that ''in the absence of this authority, other countries have been moving forward with trade agreements while America has stalled.''

What does Ambassador Zoellick mean by 'moving forward'? Let us review some statistics, compiled by the Business Roundtable, concerning recent international negotiating activity. Of the estimated 130 free trade agreements, FTAs, in force around the world today only two include the United States; only 11 percent of world exports are covered by U.S. FTAs, compared with 33 percent for European Union FTAs and customs agreements; while Western European nations have negotiated 909 bilateral investment treaties, BITs, the United States is party to only 43; 16 Western European countries have BITs with Brazil—the largest country in Latin America, 16 with China, the largest country in Asia, 10 with India, population nearly 1 billion, and 13 with Indonesia—population more than 200 million. The United States has not signed a single BIT with any of these nations. In our own hemisphere, the news is not much better. Mexico has FTAs with at least 28 countries; 25 of these agreements were concluded since 1994.

The statistics indicate that the U.S. is effectively choosing not to participate. While our competitors are carving out markets left and rights for their products and services, we seem satisfied to avoid the challenge of passing fast track trade negotiating authority and giving a President the capability to establish opportunities for American products.

Specifically, our farmers need fast track. The U.S. is the world's leading agricultural exporter. Exports represent about 25 percent of gross farm income and an estimated 30 percent of U.S. crop acreage is exported.

Considering fast track expired in 1994, it is not surprising annual U.S. agricultural exports are down from a record of $59.9 billion in 1996. Exports were $49.2 billion in 1999 and $50.9 billion in 2000. $53 billion in U.S. agricultural exports are predicted for 2001. Indeed, the Asian financial crisis caused a sizable fall in overall U.S. exports to Asia. Nonetheless, with fast track we could have established enough of a presence for our commodities in alternative markets to offset the impact of the crisis.

The bottom line on our legislation is that it permanently establishes fast track trade negotiating authority for this President and his successors. Roberts-Gramm-Hagel is indeed ambitious, but it is needed to prevent the U.S. from being left out of expanding world trade and all of the economic, political, and strategic opportunities therein.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Permanent Trade Promotion Authority and Market Access Act of 2001'.

SEC. 2. AMENDMENTS TO TRADE NEGOTIATING AUTHORITY.

(a) EXTENSION.—

(1) Section 1102 (a)(1)(A) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902 (a)(1)(A)) is amended by striking 'before June 1, 1993'.

(2) Section 1102 (b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902 (a)(1)) is amended by striking 'before June 1, 1993'.

(3) Section 1102 (c)(1) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902 (c)(1)) is amended by striking 'before June 1, 1993, the' and inserting 'The'.

(b) CONFORMING AMENDMENT.—

(1) Section 1102 (a)(1) and (b)(1) of such Act are amended by striking 'purposes, policies, and objectives of this title' each place it appears and inserting 'policies and objectives of the United States'.

(2) Section 1102(a)(2)(A) of such Act are amended by striking 'August 23, 1998' each place it appears and inserting 'March 21, 2001'.

(3) Subsection (b)(2) and (c)(3)(A) of section 1102 of such Act are amended by striking 'applicable objectives described in section 1101 of this title' each place it appears and inserting 'policies and objectives of the United States'.

(4) Subsection (b)(2)(B) of section 1102 of such Act is amended by striking 'applicable purposes, policies, and objectives of this title' and inserting 'policies and objectives of the United States'.

(5) Subsection (a)(2)(B)(i) of section 1103 of such Act is amended by striking 'applicable purposes, policies, and objectives of this title' and inserting 'policies and objectives of the United States'.

(6) 1130(b)(1)(A) of such Act is amended by striking 'Before June 1, 1991.'

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEAHY, and Mr. JEFFORDS):

S. 600. A bill to amend the Federal Campaign Act of 1971 to enhance criminal penaltie for election law violations, to clarify current provisions of law regarding donations from foreign nationals, and for other purposes; to the Committee on Rules and Administration.

Mr. THOMPSON. Mr. President, today Senator LIEBERMAN and I are introducing a bill designed to clarify the existing criminal provisions of the Federal Election Campaign Act and strengthen their enforcement.

Sen. LIEBERMAN, myself, and the members of the Government Affairs Committee spent a year investigating some of the worst campaign finance abuses in our nation's history. Despite a number of obstacles, witnesses fleeing the country, people pleading the fifth amendment, entities failing to comply with subpoenas, our Committee uncovered numerous activities that were not only improper but illegal. But although we were able to demonstrate to the American people exactly what went on in the 1996 election, I was disappointed in the failure of the Justice Department to use that information to aggressively investigate and prosecute those that violated the law. After four years of investigation the many, wide-ranging abuses, only one person connected with the presidential election, Yogesh Gandhi, will spend any time in jail. The question we have to ask ourselves is ''why?''

Unfortunately, the primary reason is that the Justice Department simply did not do its job. Leads were not pursued, subpoenas were not sought, suspects were ignored, agents were instructed not to ask questions about certain people, the law was misapplied, and no independent counsel was ever appointed to ensure a credible investigation. A hearing we held at the Governmental Affairs Committee provided just one example of how the Department ran its campaign finance probe. So impatient was the FBI with the Department's resistance to investigating Presidential friend and DNC fundraiser Charlie Trie that the Bureau's senior agent in Little Rock wrote an angry letter to FBI Director Freeh complaining about Department incompetence and stalling. The plea bargains that were entered into also raise concern.

However, we have also learned that, the federal election law itself also makes prosecution of violators more difficult than it should be. The bill that we are introducing today would ensure in the future that conscientious prosecutors can more effectively pursue those who violate existing law.

This bill accomplishes the following five goals: First, the bill makes knowing and willful violations of the Federal Elections Campaign Act, FECA, involving at least $25,000 in a year a felony. Currently, no violations of FECA are felonies. The law does not differentiate between the donor that accidentally writes a check in excess of the $1,000 limit and the fundraiser that launders $100,000 to a party or campaign. This bill will provide a deterrent and appropriate punishment for those who knowingly and willfully flaunt the campaign finance laws.

Second, the bill will extend the statute of limitations from three to five years. Outside of the Internal Revenue Code, virtually every violation of federal law has a statute of limitations of at least five years. This provision brings FECA into conformity with the rest of the law.

Third, the bill would require the Sentencing Commission to promulgate a guideline specifically for FECA violations. In addition, the bill provides specific factors for enhancement of sentences. Currently, without a specific guideline, judges are forced to turn to other guidelines, typically those intended to govern or set sentences for fraud. Unfortunately, because the donor makes the contribution with full knowledge of the scheme, the enhancement factors for fraud are basically useless. By providing judges with a specific election law sentencing guideline, they can impose appropriate sentences.

Fourth, the bill prohibits foreign soft money contributions. Prior to the 1996 campaign, I think we all thought foreign soft money contributions were illegal. Thereafter, the Justice Department interpreted "contribution" as used in FECA to have two different meanings depending on how the contribution is used, raising the possibility that foreign soft money did not fall within the scope of FECA's prohibition on foreign "contributions." Indeed, in two cases a Federal District Court Judge in D.C. ruled that foreign soft money was, in fact, legal. Subsequently, he was overruled by the Court of Appeals. However, in order to clarify the law, this bill was definitively prohibit foreign soft money contributions. Mr. President, last year the FEC wrote to Congress and asked for a clarification regarding the legality of foreign soft money. I believe we should provide that guidance.

Finally, this bill would prohibit conduit soft money contributions. Under current law, it is illegal to give $500 of hard money in the name of another, but it is perfectly legal to give $500,000 of soft money in another person's name. This bill would close that loophole and provide what I think we all can support—more, full disclosure.

Mr. President, I personally believe that we need to reform our campaign finance system. However, reform will mean nothing unless we do a much better job enforcing the law when it is violated. I believe this bill in the hands of prosecutors who are interested in enforcing the law will help ensure that in the future violators of the campaign finance laws will not walk away with a slap on the wrist.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN PENALTIES.

(a) IN GENERAL.—Subparagraph (A) of section 309(d)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended to read as follows:

"(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure—

"(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

"(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than one year, or both.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the date of enactment of this Act.

SEC. 2. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 406(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 455(a)) is amended by striking "3" and inserting "5".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the date of enactment of this Act.

SEC. 3. SENTENCING GUIDELINES.

(a) IN GENERAL.—The United States Sentencing Commission shall—

(1) promulgate a guideline, or amend an existing guideline under section 994 of title 28, United States Code, in accordance with paragraph (2), for penalties for violations of the Federal Election Campaign Act of 1971 and related election laws; and

(2) submit to Congress an explanation of any guidelines promulgated under paragraph (1) and any legislative or administrative recommendations regarding enforcement of the Federal Election Campaign Act of 1971 and related election laws.

(b) CONSIDERATIONS.—The Commission shall provide guidelines under subsection (a) taking into account the following considerations:

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of such violations and the need for aggressive and appropriate law enforcement action to prevent such violations.

(2) Provide a sentencing enhancement for any person convicted of such violation if such violation involves—

(A) a contribution, donation, or expenditure from a foreign source;

(B) a large number of illegal transactions;

(C) a large aggregate amount of illegal contributions, donations, or expenditures;

(D) the receipt or disbursement of governmental funds; and

(E) an intent to achieve a benefit from the Government.

(3) Provide a sentencing enhancement for any violation by a person who is a candidate or a high-ranking campaign official for such candidate.

(4) Assure reasonable consistency with other relevant directives and guidelines of the Commission.

(5) Account for aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements.

(6) Assure the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EFFECTIVE DATE; EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.—

(1) EFFECTIVE DATE.—The United States Sentencing Commission shall promulgate guidelines under this section not later than the later of—

(A) 90 days after the date of enactment of this Act; or

(B) 90 days after the date on which at least a majority of the members of the Commission are appointed and holding office.

(2) EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.—The Commission shall promulgate guidelines under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under such Act has not expired.

SEC. 4. PROHIBITION ON CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS.

(a) IN GENERAL.—Section 319(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(a)) is amended to read as follows:

"(a) PROHIBITIONS ON CONTRIBUTIONS AND DONATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), it shall be unlawful for—

"(A) a foreign national, or an entity that is a domestic subsidiary of a foreign national, to make, directly or through any other person, any contribution of money or other thing of value, or promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select a candidate for any political office or make any donation, or promise expressly or impliedly to make any such donation; or

"(B) any person to solicit, accept, or receive any such contribution or donation from a foreign national.

"(2) EXCEPTION.—Paragraph (1) shall not apply to an entity that is a domestic subsidiary of a foreign national if the entity can demonstrate through a reasonable accounting method that the entity has sufficient funds in the entity's account, other than funds given or loaned by the foreign national parent of the entity, from which the contribution or donation is made.".

(b) DEFINITION OF DONATION.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

"(20) DONATION.—

"(A) IN GENERAL.—The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).

''(B) FOREIGN NATIONAL.—In the case of a person which is a foreign national (as defined in section 319(b)), the term 'donation' includes a gift, subscription, loan, advance, or deposit of money or anything else of value made by such person to a State or local committee of a political party or a candidate for State or local office.''.

(c) CONFORMING AMENDMENT.—Section 319 of Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking the heading and inserting ''RESTRICTIONS ON FOREIGN NATIONALS''.

SEC. 5. PROHIBITION ON DONATIONS IN NAME OF ANOTHER.

Section 320 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441f) is amended by inserting ''or donation'' after ''contribution'' each place it appears.

Mr. LIEBERMAN. Mr. President, I am pleased to join my colleague in offering this bill. Senator THOMPSON and I spent the better part of a year working on the Governmental Affairs Committee's investigation into fundraising improprieties in the 1996 federal election campaigns. That investigation sparked a lot of discussion about whether many things that happened in 1996 were illegal or just wrong—things like big soft money donations, attack ads run by tax-exempt organizations, fundraising in federal buildings and the like.

But one thing I never heard argument about is whether it was illegal to knowingly infuse foreign money into a political campaign or to use unwitting straw donors to hide the true source of money that was going to candidates or parties. I, for one, had no doubt that the people who did those things in 1996 would be prosecuted and appropriately punished.

Unfortunately, Mr. President, many of them were prosecuted, but I have grave doubts about whether they were appropriately punished. I know that there are many who blame the Justice Department for this, but when I first looked into it a couple of years ago, I was frankly surprised by what I learned—and that is that prosecutors just don't have the tools they need to effectively investigate, prosecute and punish people who egregiously violate our campaign finance laws. I think Charles LaBella, the former head of the Justice Department's Campaign Finance Task Force, put it best in a memo he wrote assessing the Department's campaign finance investigation. According to press reports, LaBella wrote that ''The fact is that the so-called enforcement system is nothing more than a bad joke.'' Unfortunately, it's a bad joke that has real consequences for the integrity of our campaigns and our democracy.

Let me give you one example. Many people are understandably upset that Charlie Trie and John Huang didn't go to jail for what they did in '96. But the Federal Election Campaign Act, or FECA, doesn't authorize felony prosecutions. No matter how egregiously someone violates FECA, all they can be charged with is a misdemeanor. And people rarely go to jail for misdemeanors.

To get around FECA's limits, prosecutors often charge campaign finance abusers with other federal crimes that are felonies, which is what they did with Trie and Huang. But that still often doesn't solve the problem. That's because when it comes time for sentencing, judges have to turn to the Federal Sentencing Guidelines, which still often bring light sentences because there is no guideline on campaign finance violations.

The guidelines assign what's called a ''base offense level'' for each crime, and then they give a number of factors that, if present, tell the judge either to increase or decrease the offense level. The higher the offense level, the higher the sentence.

Because the Guidelines don't have a provision on campaign finance violations, judges have to look for the next closest offense, and they often end up using the fraud guideline. But that guideline doesn't take into account the factors that make campaign finance violations so harmful, and the factors that are there often aren't particularly relevant to campaign finance violations. For example, there is nothing in the guideline that makes judges distinguish between a campaign finance violation involving $2,000 and one involving $2,000,000. So, when judges calculate the offense level of a defendant who funneled millions of foreign dollars into a US campaign, they don't end up with a high offense level, meaning that the defendant doesn't get a lengthy sentence. The prosecutors know this and the defendants know this, and that must be one of the reasons why prosecutors accepted plea bargains from John Huang and Charlie Trie—because they knew they wouldn't do much better even if they won convictions at trial.

Our bill would solve these problems, by putting a felony provision into FECA and by directing the Sentencing Commission to promulgate a campaign finance guideline. If those two things happen, we will have greater confidence that those who violate the law will be appropriately punished.

I understand that some who have looked at our bill worry that it criminalizes participating in the political process. That is neither the intent nor the effect of our bill. Our bill would allow felony prosecutions only if, first, the defendant knowingly and willfully violated the law, and second, if the offense involved at least $25,000. So, it would not punish the donor who inadvertently goes over his contribution limits, nor would it go after the Party Committee clerk who makes a record-keeping mistake. Instead, our bill aims at the opportunistic hustlers who come up with broad conspiracies to violate the election laws—usually for personal gain—by funneling foreign money into our campaigns or using large numbers of straw donors to hide their identity or make contributions they aren't allowed to make—the people everyone says should be going to jail.

There are three other provisions in our bill. The first would extend FECA's statute of limitations from three to five years to make it the same as virtually all other federal crimes. The second would make it clear that foreign soft money is as illegal as foreign hard money contributions. The third would make it clear that straw donations of soft money are as illegal as straw donations of hard money. All of them are important.

Mr. President, this bill is about something that we all should be able to agree upon, which is that actions that are already criminal and that we all agree are wrong should be punished. None of our bill's provisions should be controversial, and I hope that we can see them enacted into law, so that we can go into the next election cycle with confidence that prosecutors have the tools necessary to deter and to punish those who would violate our election laws.

Mr. LEAHY. Mr. President, I am pleased to join Senators THOMPSON and LIEBERMAN in cosponsoring this legislation to improve the Federal Election Campaign Act, known as FECA. This legislation would increase criminal penalties for knowing and willful campaign finance violations, direct the Sentencing Commission to promulgate guidelines for violations, and clarify parts of FECA. This legislation is important to ensure that we have an enforcement structure that would deter knowing violations of the laws now on the books.

Questions about the financing of the 1996 Federal elections have been the subject of multiple, expensive, overlapping, and repeated congressional hearings. In 1997, the Senate Committee on Governmental Affairs held 32 days of hearings, calling 70 witnesses, at a cost of $3.5 million to investigate campaign finance violations relating to the 1996 Federal elections. The House Committee on Government Reform and Oversight has been investigating campaign finance violations since June 1997, including over 45 days of hearings. The Senate Judiciary Committee held its own series of hearings in the 106th Congress on the 1996 campaign finance investigations. Needless to say, all of these committees have spent countless hours investigating, collecting and reviewing documents, and holding hearings on alleged campaign finance abuses in the 1996 campaign. This legislation is one of the most constructive products to come out of those investigations.

Indeed, in a report to then-Attorney General Reno, the former Chief of the Campaign Finance Task Force at the Department of Justice, Charles LaBella, recommended reforms in the campaign finance laws, including the increased penalties and clarifications to certain parts of the FECA embodied in this legislation.

This bill would authorize felony prosecutions of knowing and willful FECA violations involving improper contributions aggregating $25,000 or more during a calendar year. It would also increase the statute of limitations to 5 years, which is the standard statute of limitation for Federal offenses. In addition, the bill would direct the Sentencing Commission to promulgate guidelines. Finally, the bill would clarify that foreign nationals who are not permanent residents may not donate to a candidate or political party as well as make clear that the FECA's prohibition on conduit contributions applies to any type of donation.

I am glad to join in cosponsoring this legislation again, as I did in the last Congress, and urge its prompt passage.

To the extent that we are frustrated by campaign finance abuses, I believe passage of this legislation is a better use of this body's time than the open-ended fishing expedition into open and closed cases.

By Mr. SHELBY:

S. 601. A bill to authorize the payment of interest on certain accounts at depository institutions, to increase flexibility in setting reserve requirements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SHELBY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 601

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Checking Regulatory Relief Act of 2001''.

SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

Section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

''(b) TRANSFERS.—Notwithstanding any other provision of law, any depository institution may, before September 1, 2002, permit the owner of any deposit or account on which interest or dividends are paid to make up to 24 transfers per month, for any purpose, to another account of the owner in the same institution. Nothing in this subsection shall be construed to prevent an account offered pursuant to this subsection from being considered a transaction account (as defined in section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) for purposes of that Act.''.

SEC. 3. SAVINGS AND DEMAND DEPOSIT ACCOUNTS AT DEPOSITORY INSTITUTIONS.

(a) NOW ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.—Section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended to read as follows:

''SEC. 2. WITHDRAWALS BY NEGOTIABLE OR TRANSFERABLE INSTRUMENTS FOR TRANSFERS TO THIRD PARTIES.

''Notwithstanding any other provision of law, any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) may permit the owner of any deposit or account to make withdrawals from such deposit or account by negotiable or transferable instruments for the purpose of making payments to third parties. With respect to an escrow account maintained in connection with a loan, a lender or servicer shall pay interest on such account only if such payments are required by contract between the lender or servicer and the borrower, or a specific statutory provision of the law of the State in which the security property is located requires the lender or servicer to make such payments.''.

(b) REPEAL OF PROHIBITIONS ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

(1) FEDERAL RESERVE ACT.—Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended to read as follows:

''(i) [Reserved].''.

(2) HOME OWNERS' LOAN ACT.—Section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended in the first sentence, by striking ''savings association may not—'' and all that follows through ''(ii) permit any'' and inserting ''savings association may not permit any''.

(3) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows:

''(g) [Reserved].''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 1, 2002.

SEC. 4. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY IN SETTING RESERVE REQUIREMENTS.

Section 19(b)(2) of the Federal Reserve Act (12 U.S.C. 461(b)(2)) is amended—

(1) in clause (i), by striking ''the ratio of 3 per centum'' and inserting ''a ratio not greater than 3 percent''; and

(2) in clause (ii), by striking ''and not less than 8 per centum''.

By Mr. DOMENICI.

S. 602. A bill to reform Federal election law; to the Committee on Rules and Administration.

Mr. DOMENICI. Mr. President, I rise today to introduce my own version of campaign finance reform, the Common-Sense Federal Election Reform Act of 2001.

I am again introducing straightforward reform legislation to deal with six principal areas: (1) the super-wealthy candidate; (2) party soft money; (3) inadequate hard money limits; (4) increased disclosure for certain communications; (5) paycheck protection; and (6) unlawful fundraising activities.

This bill addresses the issues that I have raised over and over again on the floor of the Senate whenever we have debated campaign finance reform. As I've said before, the biggest problem with our elections is that they no longer belong to the voters.

My bill makes six fundamental changes to existing campaign finance laws. First, it helps solve the wealthy candidate problem. Over the past decade we have witnessed the growing tide of multi-millionaire candidates financing their campaigns and effectively shutting out other qualified candidates through the sheer power of their own wealth. Something must be done to stem this tide so that the electorate hears the voices of all the candidates and not just those with extraordinary personal wealth.

The teacher, police officer, military man or woman, and the like must have an equal chance to participate as candidates in our dynamic political process. Perhaps more importantly, if the current system is allowed to stand, the public will hear only the views of the super-wealthy. Elections will become, even more than today, nothing more than a choice between two Wall Street financiers or two corporate magnates. My bill helps ensure that a candidate prevails on the strength of his ideas not the size of his personal bank account.

The bill tackles the problem without offending the First Amendment. Indeed, there are no limits on the wealthy candidate's right to spend his or her own money on his or her campaign. Rather, the bill simply levels the playing field by increasing the outdated individual contribution limits for the opponent of the self-financing candidate.

Let me explain in very general terms how it works. In New Mexico, if the wealthy candidate spends personal funds on his or her campaign in excess of approximately $400,000, the opponent could raise contributions from individuals at three times the current limit or $3,000 per election. If the wealthy candidate exceeded $800,000 in personal expenditures, the opponent could raise individual contributions at six times the current limit or $6,000. Finally, where the millionaire candidate spends in excess of $2,000,000 of personal funds, the party coordinated expenditure limits are eliminated for the opponent candidate.

This does not violate a wealthy candidate's constitutional right to use personal funds on his or her own campaign. It merely enables the non-wealthy candidate to participate in the process so that the public hears the opinions of all the qualified candidates regardless of their personal fortune.

Another important aspect of this provision states that a candidate who incurs personal loans in connection with his or her campaign cannot repay himself or herself in excess of $250,000 with contributions received after the election. It creates a perception of impropriety for a candidate, who once elected, uses the prestige of office to raise contributions to repay personal debt incurred during the campaign.

In addition to the wealthy candidate problem, the bill addresses the soft money issue. It caps soft money contributions at $50,000 per individual during each election cycle. I have long felt that Congress should limit soft money to reduce the perception that extraordinary wealthy people can buy influence through substantial, unregulated contributions to the political parties.

Third, my bill modestly increases the regulated or ''hard'' money individual contribution limits that are now 25 years old. For example, under this legislation, individuals can contribute

$5,000 to a candidate rather than the current $1,000 limit. These increases are long overdue. Campaigns are very expensive and it takes too much of a candidate's time to raise the necessary money at the outdated $1,000 limits. This bill will permit candidates to spend more time presenting their views to the public and less time attending fund raisers. Certainly, no one can argue that in today's world $5,000 is enough to buy influence.

Fourth, my bill increases disclosure requirements for certain communications. The legislation calls for the disclosure of certain information by anyone who spends more than $25,000 or more on radio or television advertising that mentions a federal candidate by name or likeness. I have long felt that disclosure is the best way to pursue campaign finance reform. Disclosure is the best policy because it does not infringe the constitutional rights of individuals and groups to engage in political speech.

Fifth, the bill deals with the use of union dues for political activities. Mr. President, I can think of no other campaign activity that is more un-American than the mandatory, compulsory taking of union dues for political purposes. The essence of democracy is that political speech must be voluntary. For many union workers, that is not the case. Indeed, unions are made up of forty percent Republicans, and yet nearly all the union money that is spent on political activity goes to the Democratic party. My bill requires the unions to get the prior, written permission of all members before using their dues for political purposes.

Finally, my bill addresses illegal fundraising activities. It clarifies that soft money is a ''contribution'' under federal election laws. Thus, it makes absolutely clear that government officials cannot use federal property to raise any campaign funds, including soft money. The bill also provides increased criminal penalties for violations of the foreign national provisions and for contributions made in the name of another.

My record is clear. Today, for at least the fourth time, I am introducing a comprehensive campaign finance bill so that my constituents in New Mexico know where I stand on campaign finance reform.

By Mr. KENNEDY (for himself, Mr. SCHUMER, Mr. SARBANES, Ms. SNOWE, Mr. DODD, Mr. KERRY, Mr. FIENGOLD, Mr. LIEBERMAN, Mr. BIDEN, Ms. CANTWELL, Mrs. MURRAY, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Ms. MIKULSKI, and Mrs. BOXER):

S.J. Res. 10. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, today, Senators SCHUMER, SARBANES, SNOWE, DODD, KERRY, FEINGOLD, LIEBERMAN, BIDEN, CANTWELL, MURRAY, FEINSTEIN, CLINTON, CORZINE, DAYTON, MIKULSKI, BOXER and I are reintroducing the Equal Rights Amendment to the Constitution. In doing so, we reaffirm our strong commitment to the ERA and full equality for women in our society.

Enactment and ratification of the ERA is essential to ensure that the law reflects our country's commitment to equality by guaranteeing equal rights for women. Existing statutory prohibitions against sex discrimination have failed to guarantee basic educational and employment opportunities for women that are equal to those available to men. The need for a constitutional guarantee of equal rights continues to be compelling.

In the absence of the ERA, too little progress has been made on women's rights, especially in the area of economic opportunity. An unconscionable gap between the earnings of men and women persists in the workforce. Today, women continue to earn only 72 cents for each dollar earned by men. Taking home less than 3/4 of a paycheck for a full days work is still a common experience for far too many women.

Sex discrimination continues to permeate many areas of the economy. While women with college degrees have made significant advances in many professional and managerial occupations in recent years, more than half of working women remain clustered in a narrow range of traditionally female, traditionally low-paying occupations. And female-headed households continue to dominate the bottom rungs of the economic ladder. When a family with children is headed by a woman, the likelihood is high that the family is living in poverty. In 1999, 41.9 percent of all families headed by single mothers lived below the poverty line.

Plainly, much remains to be done to secure equal opportunity for women. Enactment of the Equal Rights Amendment alone will not undo generations of economic injustice, but it will encourage women in all parts of the country in their efforts to obtain fairness under the nation's laws.

We know from the ratification experience of the 1970's and early 1980's that the road to adoption of the ERA will not be easy. But the extraordinary importance of the effort requires us to persevere. We should approve the ERA in this Congress, and begin the ratification process anew. The ERA must take its rightful place in America's founding document.

I ask unanimous consent that the text of our joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 10

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

''ARTICLE —

''SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

''SECTION 2. Congress shall have the power to enforce this article by appropriate legislation.

''SECTION 3. This article shall take effect two years after the date of ratification.''.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 62—EXPRESSING THE SENSE OF THE SENATE REGARDING THE HUMAN RIGHTS SITUATION IN CUBA

Mr. LIEBERMAN (for himself, Mr. LUGAR, Mr. GRAHAM, Mr. KYL, Mr. HELMS, Mr. ENSIGN, Mr. FEINGOLD, Mr. NELSON of Florida, Mr. TORRICELLI, Mr. SMITH of New Hampshire, Mr. SESSIONS, Mr. DEWINE, and Mr. SANTORUM) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 62

Whereas, according to the Department of State and international human rights organizations, the Cuban government continues to commit widespread and well-documented human rights violations against the Cuban people and to detain hundreds more as political prisoners;

Whereas the Castro regime systematically violates all of the fundamental civil and political rights of the Cuban people, denying freedoms of speech, press, assembly, movement, religion, and association, the right to change their government, and the right to due process and fair trials;

Whereas, in law and in practice, the Cuban government restricts the freedom of religion of the Cuban people and engages in efforts to control and monitor religious institutions through surveillance, infiltration, evictions, restrictions on access to computer and communication equipment, and harassment of religious professionals and lay persons;

Whereas the totalitarian regime of Fidel Castro actively suppresses all peaceful opposition and dissent by the Cuban people using undercover agents, informers, rapid response brigades, Committees for the Defense of the Revolution, surveillance, phone tapping, intimidation, defamation, arbitrary detention, house arrest, arbitrary searches, evictions, travel restrictions, politically motivated dismissals from employment, and forced exile;

Whereas, workers' rights are effectively denied by a system in which foreign investors are forced to contract labor from the Cuban government and to pay the regime in hard currency knowing that the regime will pay less than 5 percent of these wages in local currency to the workers themselves;

Whereas these abuses by the Cuban government violate internationally accepted norms of conduct;

Whereas the Senate is mindful of the admonishment of President Ernesto Zedillo of Mexico during the last Ibero-American Summit in Havana, Cuba, that ''[t]here can be no sovereign nations without free men and women. Men and women who can freely exercise their essential freedoms: freedom of